



*State Council.*  
**THE** *X*  
**INDIAN COURT FEES ACT,**

**No. VII of 1870;**

**(AS MODIFIED UP TO THE END OF APRIL 1900)**

**WITH**

**NOTES, APPENDICES,**

**INDEX, &c., &c.,**

**BY**

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**AND**

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# THE COURT FEES' ACT, 1870.

[ AS MODIFIED UP TO THE END OF APRIL, 1900 ].  
**ACT NO. VII OF 1870.**

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

[ *Received the assent of the Governor-General on the  
11th March, 1870* ].

## CHAPTER I.

### PRELIMINARY.

Short title.

1. This Act may be called  
the Court-fees Act, 1870.

Extent of Act.

It extends to the whole of  
British India ; (1)

Commencement of Act.

And it shall come into force on  
the first day of April, 1870.

“ British India ” shall mean all the territories and places  
within Her Majesty's dominions, which are for the time  
being governed by Her Majesty through the Governor-  
General of India, or through any Governor or other officer  
subordinate to Governor-General of India (*The General  
Clauses Act, X of 1897*), s. 3 (7).

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(1). Act 7 of 1870 has been declared in force in Upper Burma general-  
ly (except the Shan States) by Act 20 of 1886, section 6 ; in British Balu-  
chistan by Reg. I of 1890, section 3 ; and in the Sonthal Pergunnahs by Reg  
3 of 1872 as amended by Reg. 3 of 1886, section 6 ; and, under the  
Scheduled Districts Act, 1874, in the following Scheduled Districts, namely :—  
the District of Hazaribagh [*Gazette of India*, 1881, Part I, p. 507] ; the  
District of Lohardugga [*ib.*, 1881, Part I, p. 508] ; the District of Manbhoom  
[*ib.*, 1881, Part I, p. 509] ; the Pergunnah Dhalbhoom in the District of  
Singbhoom [*ib.*, 1881, Part I, p. 510] ; and the North-Western Provinces  
Tarai [*ib.*, 1876, Part I, p. 505]. It has been declared by notification under  
the same Act not to be in force in the following Scheduled Districts, namely :—  
the Garo Hills District, the Khasi and Jaintia Hills District and the Naga  
Hills District [*Gazette of India*, 1884, Part I, p. 164]. The Act came into



Repeal of enactments.

2. Repealed by Act XIV of  
1870.

## CHAPTER II.

### FEES IN THE HIGH COURTS AND IN THE COURTS OF SMALL CAUSES AT THE PRESIDENCY-TOWNS.

**3.** The fees payable for the time being to the clerks and officers (other than the sheriffs and attorneys) of the High Courts established by Letters Patent, by virtue of the power conferred by Statute 24 and 25 of Victoria, chapter 104, section 15 ;

or chargeable in each of such Courts under No. 11 of the first, and Nos. 7, 12, 14, 20 and 21 of the second, schedule to this Act annexed ;

and the fees for the time being chargeable in the Courts of Small Causes at the Presidency-towns, and their several offices, shall be collected in manner hereinafter appearing.

**4.** No document of any of the kinds specified in the first or second schedule to this Act annexed, as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received or

Levy of fees in High Courts on their original sides.

Levy of fees in Presidency Small Cause Courts.

Fees on documents filed, &c., in High Courts in their extraordinary jurisdiction.

permanent operation in Aden on 1st April 1876 [Bombay Government Gazette, 1876, Part 1, p. 956]. It has ceased to be in force in the Dibrugarh Frontier Tract and the Mikri Hills Tract (Assam Frontier) [Assam Gazette, 1884, Part 2, pp. 212 and 705, respectively]. It has been declared inapplicable to proceedings before officers making a settlement and in certain other cases under the Sonthal Pergunnahs Settlement Regulation—see Reg. 3 of 1872, section 8,



furnished by any of the said High Courts in any case coming before such Court in the exercise of its extraordinary original civil jurisdiction ;

or in the exercise of its extraordinary original criminal jurisdiction ;

or in the exercise of its jurisdiction as regards appeals from the judgment of two or more Judges of the said Court, or of a Division Court ;

in their appellate jurisdiction ;

or in the exercise of its jurisdiction as regards appeals from the Courts subject to its superintendence ;

or in the exercise of its jurisdiction as a Court of reference or revision ;

as Courts of reference and revision.

unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document.

This section does not apply to the High Court in the exercise of its ordinary original Civil and Criminal jurisdiction. Neither does it apply to the High Court in the exercise of its Admiralty and Ecclesiastical jurisdiction. *Balkaran Rai versus Gobind Nath Tewari*, I. L. R., 12 All., 129 F. B.

**5.** When any difference arises between the officer whose duty it is to see that any fee is paid under this chapter and any suitor or attorney, as to the necessity of paying a fee or the amount thereof, the question shall, when the difference arises in any of the said High Courts, be referred to the taxing-officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general impor-

Procedure in case of difference as to necessity or amount of fee.



tance, in which case he shall refer it to the final decision of the Chief Justice of such High Court, or of such Judge of the High Court as the Chief Justice shall appoint either generally or specially in this behalf.

When any such difference arises in any of the said Courts of Small Causes, the question shall be referred to the Clerk of the Court, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the first Judge of such Court.

The Chief Justice shall declare who shall be taxing-officer within the meaning of the first paragraph of this section.

### CHAPTER III.

#### FEES IN OTHER COURTS AND IN PUBLIC OFFICES.

**6.** Except in the Courts hereinbefore mentioned, no document of any of the kinds specified as chargeable in the first or second schedule to this Act annexed shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document.

Fees on documents  
filed, &c. in Mofussil  
Courts or in public  
offices.

Plaints and appeals in-  
sufficiently stamped in  
the first instance.

A statement of a claim drawn up on a piece of plain paper is no plaint at all; and accordingly, it was held that the presentation of such a plaint was no legal presentation. *Partap Singh versus Kishin Da-*



*yal*, P. R., 130 of 1890. A plaint filed within the prescribed period of limitation was admitted and registered. Subsequently it was discovered, on objection by the defendant, that the claim was undervalued, and that the plaint was not sufficiently stamped, but when this transpired the period prescribed for the suit had expired. The Lower Court therefore dismissed the suit as time barred—*Held*, that this order could not be maintained as it was the duty of the Court, under the above circumstances, to require the plaintiff to correct the valuation of the relief sought within a fixed time, in accordance with the provision of S. 54 (a) Civil Procedure Code, and that the case must be returned to the Lower Court for that purpose—*Held*, further, that if the plaintiff complied with such order the suit would be within time, as the date of the institution of the suit for the purposes of limitation must be taken to be the date of the first presentation of the plaint. *Jhanda Khan versus Bahadur Ali*, P. R., 3 of 1893.

A contrary view was taken by the Allahabad High Court in *Balkaran Rai versus Gobind Nath Tewari*, I. L. R., 12 All., 129, where it was held, that “a memorandum of appeal is a document included in the first and second schedules to the Court-fees Act (7 of 1870), and is a document within the meaning of Ss. 4, 25, 28, and 30 of the Act, and therefore cannot be filed, recorded in, or received by the High Court, unless and until the proper Court-fee in respect of it is paid, and is of no validity unless and until it is properly stamped, consequently if it is not, when tendered, properly stamped, it is not at that time a memorandum of appeal within the meaning of S. 541 of the Code, and the appeal cannot be regarded as having been at that time presented within the meaning of S. 4 of the Limitation Act or as valid for any other purpose, except in the events specified in S. 28 of the Court-fees Act.” It was further held that the words “mistake or inadvertance” used in S. 28, mean “mistake or inadvertance on the part of



the Court or its officers and not on the part of the appellant or his advisers." The Calcutta High Court took a similar view in *Yakut-ut-nissa versus Kishori Mohun*, (I. L. R., 19 Cal., 747), but the Madras High Court has taken a different view in *Chennappa versus Raghunatha*, I. L. R., 15 Mad., 29; where it was held that "when the memorandum of appeal is not sufficiently stamped, it is competent to the Court to levy the deficient stamp duty; as this view is in accordance with the principle laid down by the Privy Council, in *Orde versus Skinner*, I. L. R., 1 All., 230, and the wording of Section 4 of the Limitation Act and S. 54 of the Civil Procedure Code appear also to support it." The Judges remarked in this case that they did not concur in the opinion expressed in *Balkaran Rai versus Gobind Nath Tewari*, (I. L. R., 12 All., 129). This view was approved of by the Calcutta High Court in *Moti Sahai versus Chhattri Das*, I. L. R., 19 Cal., 780.

To remedy the hardship caused by the Allahabad ruling and to bring the rulings of several High Courts into harmony, the Legislature has passed Act 6 of 1892, which by incorporating a new section—S. 582 A.—into the Civil Procedure Code, has effected the above mentioned purpose. The section runs as follows :—

"If a memorandum of appeal or application for the review of judgment, has been presented within the proper period of limitation, but is written upon paper insufficiently stamped, and the insufficiency of the stamp was caused by a mistake on the part of the appellant or applicant, as to the amount of the requisite stamp, the memorandum of appeal or application shall have the same effect and be as valid as if it had been properly stamped: Provided that such appeal or application shall be rejected unless the appellant or applicant supplies the requisite stamp within a reasonable time after discovery of the mistake to be fixed by the Court." After the passing of this Act, the High Court of Madras at p. 322, I. L. R., 20 Mad., remarked, that, "since the Legislature has, by this new section



extended a limited indulgence to appellants, it cannot be supposed that it was intended to give plaintiffs, in respect of their complaints, the same indulgence in unqualified terms." It was accordingly held that, "a suit is not instituted within the meaning of S. 4 of the Limitation Act, by the presentation of a document, while not undervaluing the claim, is written on paper that does not bear the proper Court-fee. *Venkataramayya versus Krishnayya*," I. L. R., 20 Mad., 319. This ruling was followed by the Chief Court of the Punjab in *Lakha versus Munshi Ram*, 1 P. L. R., 189. In *Assan versus Pathumia*, I. L. R., 22 Mad., 494; Mr. Justice Subramania Ayyar did not agree with the conclusion arrived at in the last mentioned Madras case. He remarked:—"Plaint, in law, means (and has, since before the days of Blackstone, whose explanation of the term has been accepted by Lexicographers meant) nothing more than a 'private memorial tendered to a court, in which the person sets forth his cause of action; the exhibition of an action in writing'; whether any Court-fee is payable in an action commenced by the plaint, and if so when and how it should be paid are matters that are foreign to the question whether the document is a plaint or not. The Court-Fees Act and the Limitation Act are entirely different in their purpose and scope, and neither can be taken to control or qualify the other." Mr. Justice Davies, who took part in this case, supported the view taken in *Yenkantaramayya versus Krishnayya*, I. L. R., 20 Mad., 319 and distinguished this latter case on the ground that the insufficiently stamped plaint was not received, filed, or acted upon by the court, through mistake or inadvertance, in that case, but was at once returned to the plaintiff as not being properly stamped, which is not the case here.

A plaint which has been returned by a Civil Court to the plaintiff after cancellation of the stamp, for presentation in a Court of competent jurisdiction, can be received by

Miscellaneous cases.



the latter Court, without being again stamped. *Mussammatt Amin Jan versus Ibrahim*, P. R., 19 of 1884; *Prabhakarbhath versus Vishwembharbhart*, I. L. R., 8 Bom., 313. F.B.

The Court-fee payable on the claim for a set off is the same as for a plaint in a suit of the like nature. *Amir Samat versus Nathu Mal*, I. L. R., 8 All., 396. Applications not in writing, do not fall within this section. *Tetley versus Administrator General of Bengal*, 2 N. W. P., 418.

**7.** The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows :—

Computation of fees payable in certain suits:

The Court-fees Act being a fiscal enactment has to be construed with reasonable strictness, so that a burden may not be imposed on the public not in the contemplation of the law *Sardar Dyal Singh versus Beli Ram*, P. R., 51 of 1897, p. 229, paragraph 1. In cases of taxation everything is to receive a strict construction in favour of the subject. *Amanet Beaum versus Bhajan Lal*, I. L. R., 8 All., page 438. The salutary rule of construction adopted by the Courts in England, namely, that “statutes imposing burdens upon the subject must, in every case of doubt, be interpreted in favour of the subject,” was referred to, in the above mentioned case, with approval. In cases of doubt, the construction most beneficial to the subject is to be adopted. *Anonymous Case*, I. L. R., 10 Cal., 282. *Daya Chand versus Hem Chand Dharam Chand*, I. L. R., 4 Bom., 515. A construction put upon, for some years in favour of the public upon a fiscal enactment and acquiesced in and acted upon by Government, is not to be set aside except for some very cogent reasons indeed. *Anonymous Case*, I. L. R., 10 Cal., 282. On the other hand the principles of construction to be applied to an Act cannot be influenced by extraneous considerations,

Rules of construction of the provisions of the Court-fees Act.



such as questions of hardship *Balkaran Rai versus Gobind Nath Tewari*, I. L. R., 12 All., 129.

No additional stamp would be required under this section

Interest and mesne profits during and subsequent to the institution of suit.

on account of the claim for interest from institution of the suit until payment. It stands on the same footing as future mesne profits, which in *Rama Kriha versus Bhimabai*, I. L. R., 15 B., 416, were held not to fall under section 7 of the Court-Fees Act. *Vithal Hare Alhalve versus Govind Vasneo Thossi*, I. L. R., 17 B., 41. Following I. L. R., 15 B., 416, it was held that no stamp duty was payable in respect of the mesne profits claimed subsequent to the institution of the suit. *Maiden versus Janakia Mayya*, I. L. R., 21 Mad., 371.

i. In suits for money (including suits for damages or compensation, or arrears of main-

for money.

tenance, of annuities, or of other sums payable periodically)—accord-

ing to the amount claimed :

Where a plaintiff sued for return of an ornament worth

Suit for return of ornaments pledged.

Rs. 726-4-0, pawned for Rs. 400, offering to pay Rs. 502, the amount to which the debt had run up, and, in the alternative, he asked for a decree for Rs. 224-4-0, the difference between the value of the ornament and the amount of his debt ; it was held that the value of the suit was Rs. 224-4-0. *Nihal Singh versus Udho and another*, P. R., 62 of 1896.

A suit instituted by the mortgagee against the heir of the

Suit for mortgage money.

original mortgagor to have the mortgage debt (principal and interest) paid by sale, not exclusively of the mortgaged property, but also of all other property in the hands of such heir liable for the debts of the original mortgagor, is virtually a suit for money (and not a suit for foreclosure) and should be valued not at the principal debt,



but the entire amount, including interest. *Kashi Nath Gilal versus Ganpat Rao Amriteshwar Joshi*, I. L. R., 18 B., 626.

The plaintiffs sued in virtue of a conditional sale which had been foreclosed (i). for possession of a house, (ii). compensation, in the nature of a rent, for its use and occupation from the date of foreclosure to the date of suit, and (iii). like compensation from latter date to the date on which possession should be delivered to them :—  
*Held*; per Spankie J,—that clause 2, S. 7 of the Court-Fees' Act, did not apply to the third claim, nor was it one for money within the meaning of clause 1 of that section, but one for which S. 11 of that Act provided; per Oldfield, J.—that Court-fees were leviable in respect of the third claim, with reference to clause 1 S. 7, and S. 11 of the Court-Fees' Act. *Chedi Lal versus Kirath Chand*, I. L. R., 2 All., 682.

ii. In suits for maintenance and annuities or other sums payable periodically—according to the value of the subject-matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year ;

When the object of the suit is not merely to recover arrears of maintenance *already determined*, but to obtain a decree fixing the rate of maintenance, it should be valued according to clause 2 and not according to clause 1. Punjab Stamp Manual 1888, para. 102, p. 69.

It is not open to a plaintiff to represent the subject value of the suit as more than it really is, with a view to having his suit filed in a superior Court and that if this is done by mistake, the suit must nevertheless be remitted to the lowest Court of competent jurisdiction. In a suit filed in the Court of a Sub-ordinate Judge, the plaintiff prayed, *inter alia*, for a decree for the payment annually of the emoluments attached to a certain

for maintenance and annuities ;  
 Over-valuation not allowed.



office, or their value at a rate stated in the plaint. This portion of the claim he valued, under clause 2 of S. 7 of the Court-Fees' Act, at ten times the amount of the value claimed for one year. The value of the suit thus stated exceeded the pecuniary limit of the jurisdiction of the District Munsiff. The Subordinate Judge held that this portion of the claim was not actionable in as much as the right to the emoluments was conditional upon services to be rendered, and did not fall under clause 2 of S. 7 of the Court-Fees' Act, not being a fixed sum payable periodically and therefore he held that the plaint was improperly valued, that the suit was not within his jurisdiction, and that the plaint should be returned to be presented to the proper Court: *Held*; that this order was right. *Krishnan versus Revi Varma*, I. L. R., 8 Mad., 384.

iii. In suits for moveable property other than money, where the subject-matter for other moveable property having a market value ; has a market-value—according to such value at the date of presenting the plaint ;

Bonds are personal property and their value is derived Bond. from the interest secured by their terms. They have a value in themselves, as forming additional security for rights, and there does not seem to be any reason why they should not be held to be property in the ordinary sense of the word. If they are property, they must not be valued as so many pieces of paper or manuscript: they must have their actual value stated in the suit, and that can be nothing less than the amount for which they are held as securities. P. R., 10 of 1871 p. 17.

iv. In suits—

(a) for moveable property where the subject-matter has no market-value, as, for for moveable property of no market-value ; instance, in the case of documents relating to title.



Where a plaintiff sued to obtain possession of mortgage deeds, executed by defendant, alleging that the mortgage-debt had not been paid and that defendant was not entitled to keep the deeds; it was held that such a suit must be valued for the purpose of jurisdiction according to the amount secured by the mortgage deeds. But the question as to the valuation of the suit for purposes of Court-fee was left undetermined, *Salig Ram versus Diwan Muhammad Fazl-ulla-Khan*, P. R., 39 of 1875. A suit for delivery bonds and an injunction to restrain the defendants suing on the bonds, or drawing out the money from the Bank, was held to fall under this clause. *Haro versus Ramabai*, P. J., 1894, p. 145.

(b) to enforce the right to share in any property on the ground that it is joint family property.

to enforce a right to share in joint family property ;

If a plaintiff's suit is to recover possession of, or establish his title to, the share he claims in the property he must pay an *ad valorem* stamp-fee upon the value of that share. If he is already in possession of his share, and all that he wants is to obtain a partition, which is merely to change the form of his enjoyment or, in other words, to obtain a divided, instead of an undivided, share, then a stamp fee of Rs. 10 is sufficient, as it is impossible to say what will be the value to the plaintiff of this change in the nature of the property. *Kirthy Churn Mitter versus Annath Nath Deb.*, I. L. R., 8 Cal., 757. Generally speaking, the value of such a suit is the difference between the value after partition of the plaintiff's share which he requires to be partitioned and the value of the same not partitioned, *Kistee Chunder Mitter versus Annath Deb*, 13 C. L. R., 253. For the purposes of the stamp, the cause of action which is stated in the plaint and that only, must be looked at. A ten rupee stamp is a proper stamp in a partition suit, where the only relief claimed is partition. *Mohendro Chundra Ganguli versus Ashutosh Ganguli*, I. L. R., 20 Cal., 762.



These rulings have been expressly dissented from in Madras, *Vide References* under Court-Fees' Act, Section 5 (4), Mad., L. J. Rep., 110, where it was held that a suit for partition by one of two persons who is in joint possession with the other, *i. e.*, one half being held by tenants under one and the other half by tenants under the other, is chargeable with an *ad valorem* fee under clause 5, as being suit for partition of joint family property. The rule in Bombay is that the stamp on a suit for partition and possession of the plaintiff's share of joint family property must be an *ad valorem* one on the value of the share. *Balwant Ganesh versus Nana Chinta Man* I. L. R., 18 Bom., 209; *Moti Bhui versus Hari Das*, I. L. R., 22 Bom., 315; *Mahadeo versus Luxman*, P. J., 1892, p. 13. .

In the Punjab the rule accepted by Madras and Bombay is followed.

A plaintiff having a right to share in property, must sue for that share specifically on an *ad valorem* stamp and cannot sue for a declaratory decree of his right to share in that property. *Mussammatt Ganeshu versus Mussammatt Durohati*, P. R., 20 of 1875. Plaintiff, a minor, sued, through his next friend, for partition of his one third share of the paternal estate. The plaint, which bore a Court-fee stamp of Rs. 10, alleged that all the parties were in joint possession of the entire property, the first defendant, however, having the sole control as manager of the joint family; and, for reasons specified in the plaint, the plaintiff prayed to be put in separate possession of his admitted one third share of the estate, which he valued at Rs. 53,227-1-1. *Held*, that the suit was liable to an *ad valorem* fee as being one "to enforce a right to share in any property on the ground that it is joint family property," within the meaning of section 7, sub-section (4), clause (b) of the Court-Fees' Act 1870, and none the less such because plaintiff's share was admitted, and merely his right to separate possession denied, the said clause having been so framed as to cover all cases within its general purview, in which something more than a mere declaration of right is sought for and consequen-



tial relief, whether it be in the form of joint possession, separate possession, an injunction, or other appropriate relief, is asked for. *Paghuhar Deyal versus Salig Ram*, P. R., 104 of 1895.

Semble: Even if the property did not fall under the category of family property, a suit for partition thereof would still be liable to an *ad valorem* fee under sub-section (3) or sub-section (5) of section 7, according to the nature of the property. *Raghar Dyal versus Salig Ram*, P. R., 104 of 1895.

for a declaratory decree and consequential relief ;

(c) to obtain a declaratory decree or order, where consequential relief is prayed.

Where a plaintiff, whose objection to the attachment of property in execution of decree, has been disallowed by the executing Court, brings a suit under section 283 of the Civil Procedure Code to establish his right to such property, the suit must be treated as one for the property or for a declaratory decree, where consequential relief is prayed, and it must bear a stamp under section 7, clause 4 (c) of the Court-fees act, according to the amount at which the relief sought is valued, which may be estimated either at the value of the property attached or at the sum for the payment of which the property was attached, if such sum is less than the value of the property. Civil Appeal No. 125 of 1874 followed. *Jeewa versus Kulloo*, (No. 84 of 1870, Civil), *Jowala Singh versus Devia*, (No. 167 of 1882, Civil), and *Shugan Chand versus Bugast*, (No. 97 of 1883, Civil) referred to, *Karmud Din versus Jaswant Singh* (No. 80 of 1886, Civil). But this view was dissented from in a later ruling. *Sardar Dial Singh versus Beli Ram*, P. R., 51 of 1897. For full discussion on the subject, See notes under Schedule II, art. 17 ; and S. 7, clause 8.

An injunction is in the nature of consequential relief. A suit for a declaration and injunction falls under this clause. *Sardar Singhji versus Ganpath Singhji*, I. L. R., 17 Bom., 16. *Gulab Singhji versus Lukhshman Singhji*, I. L. R., 18 Bom., 100, 103.



Suits relating to the appointment and removal of Mutwalis and Mahants.

A suit asking the following reliefs ;

1. that the defendant may be declared unfit to continue the *Mahant* of the institution and may be removed ;
2. that plaintiff be declared entitled to nominate his successor according to the will ;
3. that if the above reliefs cannot be granted, defendant may be compelled to comply with the provisions of the will ;
4. that plaintiff be granted such other relief as the will contemplates and the circumstances of the case permit ;

was held to fall under S. 7. clause (4) (c) of the Court-Fees' Act. *Bawa Mangal Das versus Mahant Niranjana Das*, P. R., 56 of 1895.

It was also held in the above named ruling that in cases where plaintiff seeks the removal of a trustee or manager of an institution, *but does not seek possession of the property for himself as manager or trustee*, full stamp should not be taken upon the value of the property of the trust or institution.

A suit for the removal of a *Mutwali* for misfeasance and for the appointment of plaintiff in his place, should be stamped on the value of the appurtenances of the office of *Mutwali*, where such value was easily ascertainable. *Delroos Bano Begum versus Nawab S. Asgher Ali Khan*, 15 Ben., L. R., 167. This ruling was cited with approval in *Omrao Mirza versus Jones* I. L. R., 10 Cal., 597. A suit for removal of defendant from the management of certain trust funds on the ground of misconduct, in which the plaintiff having himself valued the claim, *for purposes of jurisdiction*, at Rs. 7,000, but having filed the plaint on a Rs. 10 stamp only, the Court held that the Court-fees must be paid at least on Rs. 7,000. A suit for the removal of a *Karnavan* of a Malabar *tarvad*, even when the plaintiff seeks the appointment, is incapable of money valuation and must be valued under Art. 17, clause 6, of the second Schedule of the Court-Fees' Act ; the



special ground being that the possession is all along with the *tarvad*; *Kariyal P. E. Tachorwala versus K. P. E. Kunammal*, I. L. R., 4 Mad., 146. See *Samiwasa versus Venkanta*, I. L. R., 11 Mad., 148. Although for the purposes of the Court-Fees' Act, a suit to remove the *Karnavan* of a Malabar *tarvad*, is incapable of valuation and subject to the fee prescribed by clause 6, Art. 17, Sch. II. of that Act, yet, for the purposes of determining jurisdiction and S. 12 of the Civil Courts Act, the right of management, which is the subject matter of the suit, must be valued. If the value is estimated *bona fide* by the plaintiff, the Court should adopt it. *Krishna versus Raman*, I. L. R., 11 Mad., 266.

A suit for removing a trustee in possession and for appointing the plaintiff in his stead and placing him in possession of the trust property must be treated, for purposes of Court-fees, in the absence of a special provision of law, as a suit falling under S. 7 of the Court-Fees' Act. *Sonachala versus Manilela*, I. L. R., 8 Mad., 618. The Punjab Chief Court required a stamp on the full value of the property to be filed in a suit for the possession of an *Akhara* as *Mahant* and the ejectment of the defendant, the *de facto Mahant*. *Sant Ram versus Budh Parkash*, C. A., No. 117 of 1886. The same Court appears to have exacted full stamp in a suit by the worshippers at a mosque to eject the *mutwali* for mismanagement and have a new scheme of management settled by the Court. *Alahi Begum versus Muhammad Syad Khan*, C. A., No. 2319 of 1884, unpublished. But this ruling was not followed in P. R., 56 of 1895.

A suit in which the only prayer is to have a decree set aside as being null and void is a suit for a declaratory decree without consequential relief. Such a suit falls under clause (3) of Art. 17, Sch. II of the Court-Fees' Act. *Sankara versus Vyaya*, I. L. R., 7 Mad., 134. *Shrimut Sagierao versus Smith*, I. L. R., 20 Bom., 736. A prayer in the plaint that the deeds might be set aside is a prayer for a substantive relief. *Tacoordeen Tuvarry versus Nawab Syed Ali Hussain Khan*, 21 W. R., 340 P. C. Upon the

Suits to set aside decrees and deeds.



principle laid down by the Privy Council in the above mentioned case, it was held by the Calcutta High Court that "a plaint for confirmation of possession and for setting aside a forged and invalid will, could not come under the Court-Fees' Act, Sch. II, Art. 17, clause 3, but must be stamped according to the value of the subject matter of the suit. *Joy Narain Goree versus Grish Chunder Mytee*, 22 W. R., 438. The Allahabad High Court held that a suit for the cancelment of a mortgage deed is in the nature of a simple declaratory suit, distinguishing both the Privy Council and the Calcutta High Court rulings, above noted, on the ground that they were given before the Specific Relief Act came into operation; which now specifically provides for the institution of such suits. *Kamar Khan versus Daryai Singh*, I. L. R., 5 All., 331. In a recent ruling of the Chief Court it was observed that the decision of the Privy Council 21 W. R., 340 must of course receive full effect, but that it by no means governs the decision of the case under discussion. That case was decided in 1874, upon appeal from a decree made in 1867, both decisions being earlier in date than the Specific Relief Act of 1877. There was at that time no statute law in India as to cancellation of instruments such as is contained in Chapter V of that Act. It does not follow that in every case in which there is a prayer to set aside a deed that prayer is for substantive relief. If the facts alleged by a plaintiff regarding a particular document are such as to entitle him on proof of these facts to a declaration that it shall be inoperative as against him and also to have it delivered up and cancelled in whole or in part, and his prayer is for such a declaration, and for setting aside the documents, or for such other relief as the Court thinks fit, he does ask for consequential relief. But if the facts alleged are such that the only relief that can be granted is a declaration that the document



shall be inoperative as against him, and do not disclose a right to have it delivered up and cancelled in whole or in part, it cannot be presumed that he asks for consequential relief merely because he asks to have it set aside. *Hakim Rai versus Mussammat Mahtab Kour*, P. R., 109 of 1893. Plaintiffs sued for the cancellation of a mortgage executed by one of the defendants in favour of the other in contravention of a covenant made by the mortgagor with the plaintiff by which he was bound not to alienate the property by sale or mortgage elsewhere until he had first satisfied the mortgage debt due to the plaintiff; *held*, that the case fell under Section 7, clause 4 (c), of the Court-Fees' Act, as plaintiff was claiming consequential relief, and that he was to value the relief sought. *Chuni Lal versus Boder Mal*, P. R., 2 of 1886.

Suits under Section 60 and 77 (3) (h) of the Punjab Tenancy Act would seem to fall under three classes.—

- (i) those in which the alienor remains in possession and the landlord, merely sues for cancellation of the alienation,
- (ii) those on which the alienee is in possession and the landlord, after securing the cancellation of the alienation, sues the alienee for possession,
- (iii) those in which the alienee is in possession and the landlord sues both the alienor and the alienee, claiming the cancellation of the alienation and the possession of the land.

Suits comprised in class (i) should be stamped under the Court-Fees' Act, Section 7 (4) c. as the cancellation of a bond is consequential relief (see Punjab Record 2 of 1886 and 109 of 1893, and compare Section 39 with Section 42 of Act 1 of 1877.

Suits comprised in class (ii) should be stamped under Court-Fees' Act, Section 7 (v).



Suits comprised in class (iii) should be stamped under Court-Fees' Act, Section 7 (4) c. (*Punjab Revenue Circulars No. 17, page 67, para 9 (b).*

(d) to obtain an injunction,

A suit praying merely for a declaration that plaintiff is entitled to require the defendant to account to him and to permit him to examine their books is simply a suit for declaratory decree without consequential relief, and falls within Art. 17, clause 3 of Sch. 2 of Act 7 of 1870. A suit praying for such a declaration as the above, and also for a positive order in the nature of mandatory injunction for the production of defendant's books or property in their hands, or a suit praying for such declaration as the above and also for a positive decree for an account to be taken by the Court, and for the production of the books and property, would range under S. 7, clause 4, Art. (e) of Act 7 of 1870, as being a suit "to obtain a declaratory decree or order where consequential relief is prayed," and also within Art. (d) of the same section, as being a suit "to obtain an injunction,"; and a suit of third species described above would fall Art. (f) of the same clause, as being a suit "for accounts." *Manoher Ganesh versus Bawa Ramcharan Das*, I. L. R., 2 Bom., 219.

(e) for a right to some benefit (not herein otherwise provided for) to arise out of  
for easements ; land, and

Under this clause would come suits for right of way, or right of drainage or flow of water over land, and other suits for easements of every other kind.

for accounts ; (f) for accounts—

The value of a suit for an account is the amount claimed or the amount at which the relief is valued (Section 7, paragraph 4) with the addition possibly, of any amount required to be paid under S. 11. of the Court-Fees' Act.



*Sardar Kirpal Singh versus Nawab Khan*, P. R., 40 of 1892, p. 154. But a somewhat different view was expressed in *Futteh Muhammad Khan versus Mohon Lal*, P. R., 86 of 1892, which ruled that under Section 7, clause 4 of the Court-Fees' Act, the valuation of the original suit for purposes of Court-fee is fixed at the amount at which the relief sought is valued in the plaint. Section 11 of the Act only contains a provision which secures the full amount due upon the sum decreed being eventually recoverable so the loss will not result to the revenue.

Applications under S. 265, of the Contract Act, for an account

Applications under s. 255 IX of 1872. and winding up of partnership; (*Bhogi Lal versus Popakbhai* (I. L. R., 7 Bom., 125); or for the winding up by the Court of the business of a firm after the termination of partnership, (*Erakshah Dhanji Seth versus Adarji Dorabji* I. L. R., 7 B. 535); or for the winding up of a partnership; (*Ahad Ali Pradhan versus Amir-ud-din Mahomed*) were held to fall under this clause and liable to *ad-valorem* stamp,

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

In all such suits the plaintiff shall state the amount at which he values the relief sought.

Plaintiff cannot assign an arbitrary value to the relief sought, which the Court is bound to accept.

Valuation by plaintiff. *Boedya Nath versus Makhan Lal*, I. L. R., 17 Cal., 680. The valuation rests with the plaintiff and that he must at least be allowed a large discretion in the matter, though it is not laid down that under no circumstances has the Court jurisdiction to question the plaintiff's valuation. *Sardar Singhji versus Ganpat Singhji*, I. L. R., 17 Bom., 56. This view is to some extent supported by *Sheo Narain versus Tulshi Ram*, I. L. R., 15 All., 378, in which, it was remarked that it is for a plaintiff to put his own valuation on the relief which he claims. In *Bawa Mangal Das versus Mahant Niranjana Das*, P. R., 56 of 1895, Mr. Justice Rivaz remarked; that



“without attempting to rule that the final paragraph of S. 7 clause 4 of the Court-Fees’ Act forbids the interference of the Court in all conceivable cases, I would go so far as to decide that at least when the plaintiff has valued his relief at a sum, which is *prima facie* not unreasonable, it was not intended that the Court should challenge or revise such valuation.” It was held in the above mentioned case that the Legislature has reasonably permitted the valuation of reliefs falling under this clause, to be fixed by the plaintiff himself.

v. In suits for the possession of land, houses and gardens—according to the value  
for possession of land, houses and gardens ; of the subject-matter ; and such value shall be deemed to be—

where the subject-matter is land, and—

A suit for an interest in land is not a suit for possession  
Suits for possession of land. of land. See *Haider Khan versus Ali Akbar Khan*, P. R., 18 of 1897.

A suit for possession of land by a mortgagee by a conditional sale, who claims to have foreclosed his mortgage under Regulation 17 of 1806, is a suit for possession of land, falling within clause 5, Section 7, Court-Fees Act, 1870, and is not a suit by a mortgagee to foreclose the “mortgage” falling under clause 9 of the section, suits for foreclosure of mortgages being unknown in the Punjab where foreclosure takes place as a ministerial and not a judicial proceeding under the Regulation of 1806. *Telu Mal versus Lal Singh*, P. R., 20 of 1893.

A suit to eject a tenant at fixed rates is a suit for possession of land within the meaning of  
Suits for possession against tenants. para. 5, S. 7, of the Court-Fees’ Act, and the valuation of such suit for the purposes of Court-fees, is the value of the subject matter of the suit, that is to say, of the tenant right, not of the land itself, nor of merely one year’s rent. *Ramraj Tewari versus Gernanmitye Bhagut*, I. L. R., 15 All., 1863. Plaintiff, who was already in possession as mortgagee, sued a third party who was in actual



possession, who, whilst admitting that he was only a tenant, refused to recognize plaintiff's title. *Held*, by the Full Bench, that the suit must be regarded as one for possession of a house by a person, out of possession, against a person in actual possession, whom the plaintiff sought to eject, and that the value of the suit for purposes of jurisdiction was the value of the house itself. *Jalal versus Muhammad Bakhsh*. P. R., 1. of 1897. In such a case the value for purposes of Court fee would be the same as that for jurisdiction.

Where a plaintiff sued for possession of certain land on the allegation that the defendant in his father's life-time borrowed Rs. 165, promising on his father's death to put plaintiff in possession of the land in suit as mortgagee, it was held by Campbell, J., that the suit was one for specific performance of a contract of mortgage, and that the appeal must be valued at Rs. 165, the amount agreed to be secured, under clause X (b) of S. 7 of the Court-Fees' Act. C. A. No. 199 of 1875.\* But a suit by a mortgagee for delivery of possession of land actually mortgaged to him, should be valued under this clause and not under clause X (b). C. A. No. 134 of 1875. So where a plaintiff sought to recover possession of a date garden, on the allegation that he had been put into possession by two deeds of mortgage and had been subsequently ousted by the defendant, it was *held*, that the suit was not one for specific performance of a contract of mortgage, so as to fall under clause X (b) of S. 7 but that the suit fell under clause 5 (e) of S. 7 and an *ad valorem* fee was necessary on the value of the garden. *Chela Mal versus Fazl Deen* P, R., 33 of 1880. It has also been held, that a suit for possession of land under a deed of sale is not a suit for specific performance of a contract of sale within the meaning of clause 10 of S. 7, but is a suit for possession of land, the value of which should be computed under clause V. C. A., No. 563 of 1874.\* Where the plaintiffs in a suit sought to recover land alleged to have been sold to them by

\* These rulings have been taken from Clifford's Court-Fees' Act, p. 12.



the defendants under a conveyance deed, it was held by the High Court of Madras that the suit must be valued as a suit for recovery of the land, not as a suit for specific performance of a contract of sale, the allegation of the plaintiffs being that there was an absolute conveyance though no delivery of possession. (Opinion of Acting C. J., High Court Madras 28th January 1894, quoted at page 113, Digest of Rules and Orders of High Court of Madras, Ed. 1873.\*

(a) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government, or forms part of such an estate and is recorded in the Collector's register as separately assessed with such revenue, and such revenue is permanently settled—ten times the revenue so payable ;

The words entire estate or definite share of an estate paying annual revenue to Government or part of such an estate recorded in the Collector's register as separately assessed with such revenue, in clause 5, Section 7, include land, the proprietor or possessor of which pays the revenue assessed to an assignee of Government, such as a *Jagirdar* or *Mafidar*. "Part of an estate separately assessed" means any portion of a village charged with a specific allotment of the assessment. This does not ordinarily include *shamilat* or common land. Suits for portions of *shamilat* land which has not been separately assessed must be valued under sub-clause (d). But if the suit be for an entire holding which includes a share in the *shamilat*, the valuation will be regulated, by the assessment on the entire holding. (Financial Commissioner's letter No. 6411, dated 5th September 1881.) The

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\* These rulings have been taken from Clifford's Court-Fees' Act, p. 12.



assessment of the Court-fee in a suit by a subordinate tenure holder to recover possession of a definite portion of an entire estate paying a permanently settled annual revenue to Government should be made under this clause. *Habibul Hussain versus Mohamed Raza*, I. L. R., 8 Cal., 192.

(b) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid ; and such revenue is settled, but not permanently—five times the revenue so payable ;

It was held by the Chief Court that a suit for a fractional share of a holding, not a definite share in an estate paying annual revenue to Government, must be valued for purposes of the stamp under clause 5 (d) of S. 7. of the Court-Fees' Act, on the market value and not on the revenue under clause 5 (b), there being no provision in the Act for calculating on the land revenue, the value of a fractional part of a holding recorded in the Collector's register as separately assessed. *Haider Ali versus Soudha*, P. R., 102 of 1880. But it was subsequently directed, in Notification No. 690, dated 1st February 1884, that "when part of an estate paying annual revenue to Government under a settlement which is not permanent is recorded in the Collector's register as separately assessed with such revenue, the Court-fee payable on the institution of a suit for possession of a fractional share of that part shall not exceed five times such portion of the revenue separately assessed on that part as may be rateably payable in respect of that share. *Punjab Stamp Manual* 1888, para. 109. Plaintiff sued for possession of 214 *kanals*, 8 *marlas* of land, on the allegation that defendants sold it to him for Rs. 1,500, gave him possession and subsequently ousted him. The sale deed conveyed to defendants no specific land,

Suits for fractional share of an estate or holding.



but seven-fifteenths of a joint *khata* measuring 460 *kanals*, 10 *marlas* of land. *Held*, that the plaintiff's prayer really was for possession jointly with the defendant of the joint *khata*, with an interest therein to the extent of seven-fifteenths, and that the whole *khata* being part of an estate paying annual revenue to Government and recorded in the Collector's register as separately assessed with revenue, within the meaning of this clause, the value of the suit must be deemed to be five times the revenue payable on the *khata*. *Ganda Mal versus Mussammatt Mehtabo*, P. R., 67 of 1878.

(c) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue,

and nett profits have arisen from the land during the year next before the date of presenting the plaint—

fifteen times such nett profits :

but where no such nett profits have arisen therefrom—the amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood :

Clause 5 (c) of section 7 refers to suits for the possession of land, in which the possessor is exempt or partially exempt from payment of land revenue either to Government, or to an assignee of Government, or where he is charged with a fixed payment (*Nazrana*) in lieu of such revenue; the land is to be valued at fifteen times the annual nett profits, if such profits have arisen, during the preceding year, and if not, then at the amount the Court may estimate. Suits for the interest of an assignee of land revenue are to be valued in the same manner under clause 7 (Punjab Stamp Manual p. 72.)



- (d) where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate and is not separately assessed as above mentioned—the market-value of the land :

Provided that, in the territories subject to the Governor of Bombay in Council the value of the land shall be deemed to be—

Proviso as to Bombay Presidency ;

- (1) where the land is held on settlement for a period not exceeding thirty years and pays the full assessment to Government—a sum equal to five times the survey-assessment ;
- (2) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government—a sum equal to ten times the survey-assessment ; and
- (3) where the whole or any part of the annual survey-assessment is remitted—a sum computed under paragraph (1) or paragraph (2) of this proviso, as the case may be, in addition to ten times the assessment, or the portion of assessment, so remitted :

*Explanation.*—The word 'estate,' as used in this paragraph, means any land subject to the payment of revenue, for which the proprietor or a farmer or raiyat shall have executed a separate engagement to Government, or which, in the absence of such engagement, shall have been separately assessed with revenue :



(e) Where the subject matter is a house or garden according to the market value of the house or garden :

In a suit for possession of land, and for demolition of buildings erected thereon, held that in estimating the value for the purposes of the Court-Fees' Act, the value of the buildings, which might have to be demolished should not be taken into account. *Jogal Kishore versus Tala Singh*, I. L. R., 4 All., 320, F. B.

Plaintiff, who was already in possession as mortgagee, sued a third party who was in actual possession who, whilst admitting that he was only a tenant, refused to recognize plaintiff's title. Held by the Full Bench, that the suit must be regarded as one for possession of a house by a person, out of possession, against a person in actual possession, whom the plaintiff sought to eject, and that the value of the suit for purposes of jurisdiction was the value of the house itself. *Jalal versus Mohammad Bakhsh*. P. R., 1 of 1897. In such a case the value for purposes of Court fee would be the same as that for jurisdiction.

A *Paramba* in Malabar is not subject to land tax, but a tax is levied on trees of certain kinds which may grow on it. For the purpose of the Court-Fees' Act, the *Paramba* may be regarded as a garden or as a land which pays no revenue, according to the circumstances of each case, *Audathodan versus Pullambath Mamally*, I. L. R., 12 Mad., 301, F. B.

vi. In suits to enforce a right of pre-emption—according to the value (computed in accordance with paragraph 5 of this section) of the land, house or garden in respect of which the right is claimed :



Suits to enforce a right of pre-emption under clause (6) are to be valued according to the mode prescribed in clause 5, and not according to the amount for which the property was sold. Unless the land in suit is a definite share in an estate paying revenue to Government or is recorded in the Collector's register as separately assessed, the stamp must be calculated on the value of the land under sub-clause (d) and not on the revenue under sub-clause (b). P. R., 6 of 1883. *Mussammatt Nadir Nishan versus Mussammatt Jian*. See to the same effect, *Reference under S. 5, I. L. R., 16 A., 493*.

When an appeal is preferred on the ground that the right to pre-empt has or has not been established as the case may be, no matter what other pleas may be taken, for the purpose of the Court Fees Act, the value of the subject matter in dispute must be determined as provided in clause 6. But where the question in appeal relates solely to the amount paid by the pre-emptor, the fee should be calculated *ad-valorem* on the difference between the amounts alleged as the sale price on the one side and the other. *Hafiz Ahmad versus Sobharam*, I. L. R., 6 All., 488.

vii. In suits for the interest of an assignee of land-revenue—fifteen times his nett profits as such for the year next before the date of presenting the plaint :

for interest of assignee of land-revenue ;

viii. In suits to set aside an attachment of land or of an interest in land or revenue—according to the amount for which the land or interest was attached :

to set aside an attachment ;

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest :



Suits to set aside an attachment of land or of an interest in land or revenue, are to be valued under this clause at the amount for which the land or interest was attached; provided that in no case is a higher fee to be paid than would be payable if the suit for possession of such land or interest had been filed. *Collector of Thana versus Dadabhai Romanjea*, I. L. R., 1 Bom., 352.

The term land in this clause does not include a house, is apparent from the commencement of clause 5 and article (e) of the same clause and section, and clause 11—in all of which passages, houses, distinctly from land, are specially mentioned, when intended to be dealt with. *Daya Chand Hem Chand, versus Hem Chand Dharam Chand*, I. L. R., 4 B., 523-524. The rule laid down in paragraph 8 cannot be applied to property other than land. *Sirdar Dyal Singh versus Beli Ram and others*, P. R., 51 of 1897, p. 229, para. 1.

The order of an executing Court allowing or disallowing the objection of a third party to an attachment is a summary order within the meaning of clause (i) of Article 17, and there being a provision in the Court-Fees' Act, expressly applicable to suits for setting aside summary orders, clause (c) of paragraph (4) of Section 7 cannot be extended to them. *Daya Chand versus Hem Chand Dharam Chand*, I. L. R., 4 Bom., 515., F. B. *Sada Shiva Yeshwant versus Atma Ram Sukha Ram*, *Ibid*; 535; *Dhondo Sakha Ram versus Gobind Bahagi*, I. L. R. 9 Bom., 20; *Fatma Begam versus Sukh Ram*, I. L. R., 6 All., 314; *Mamraj Kour versus Maharaja Radha Pershad Singh*, *Ibid.*, 466. On the other hand the Calcutta High Court has held that a suit, which seeks the setting aside of an order in execution, is one which requires *ad valorem* Court-fee under S. 7, paragraph (4), clause (c), of the Court-Fees' Act. *Ahmad Maya Sahib versus A. Thomas*, I. L. R., 13 Cal., 162; *Jalal-ud-din*



*Mahommed versus Shaharullah*, 15, B. L. R., Appendix 1. See to the same effect, *Narayan versus Aya*, 7 Mad. H. C. Rep., 372, and *Kamar-ud-din versus Jaswant Singh*, P. R., 80 of 1886. (over ruled by P. R., 51 of 1897, F. B.) It has been held in *Moti Singh versus Kamsalla*, I. L. R., 16 All., 308; *Dildar Fatma versus Narain Das*, I. L. R., 11, All., 365, and *Gobind Nath Tuwari versus Gujraj Mats Tawrayan*, I. L. R., 13 All., 389; that suits under S. 283 of the Civil Procedure Code, fall under Schedule II, Article 17, clause 3 of the Court-Fees' Act. The principle of valuation adopted in *Sremant Sagajerao versus Smith*, I. L. R., 20 Bom., 36, supports the above decisions. While in *Sardar Dyal Singh versus Beli Ram*, P. R., 51 of 1897, F. B., it was remarked that it is not absolutely necessary to decide whether the suits of the nature described above fall under clause (i) or (iii) of Art. 17, Sch. II of the Court-Fees' Act, as the Court-fees leviable in either case is the same, *i. e.*, Rs. 10. Both views are arguable and are supported by authorities, and so such suits fall under one or other of the above clauses and that a Court-fee of Rs. 10 is sufficient for the plaint. (*Kamar-ud-Din versus Jaswant Singh* P. R., 80 of 1886, was over ruled).

A suit to restore an attachment does not fall under this clause *Daya Chand versus Hem Chand Dharam Chand*, I. L. R., 4 Bom., 515.

to redeem ;

ix. In suits against a mortgagee for the recovery of the property mortgaged,

to foreclose ;

and in suits by a mortgagee to foreclose the mortgage,

or where the mortgage is made by conditional sale, to have the sale declared absolute—

according to the principal money expressed to be secured by the instrument of mortgage.



Suits to redeem must be valued under clause 9, according to the amount secured by the mortgage deed ; thus if the property pledged  
 Redemption.

be revenue assessed land, the suit would be valued at the amount for which the land was mortgaged, and not at five times the land revenue. In a redemption suit against a mortgagee in possession, when the mortgagee has not paid rent which has been stipulated for, and the plaintiff asks for an account in taking which the arrears of rent should be deducted from the mortgage amounts, *Held* :—that the Court fee should be computed according to the principal sum expressed to be secured by the mortgage. *Eacharai Patter versus Appu Patter*, I.L. R., 19 M., 16. In a suit for the redemption of a *kanom*, institution fee ought to be paid on the *kanom* debt as it originally stood. *Reference under Court-Fees' Act*, S. 5 (3). I. L. R., 14 Mad., 480.

It was held in *Telu Mal versus Lal Singh*, P. R., 20 of 1893, p. 105, para 3, that “Suits for fore-  
 Foreclosure.  
 closure are quite unknown in the Punjab, where Regulation 17 of 1806 is still in force, and where therefore foreclosure takes place under the provisions of the Regulation in proceedings which are not judicial but ministerial.” A suit for possession of land by a mortgagee by condition sale, who claims to have foreclosed his mortgage under Regulation 17 of 1806 is a suit for the possession of land falling under clause 5, section 7, Court-Fees' Act, and is not a “suit by a mortgagee to foreclose the mortgage” falling under clause 9, of the section. *Telu Mal versus Lal Singh*, P. R., 20 of 1893. In *Ahollya Dabia versus Shama Charan Bose*, 1 Cal. L. R., 473, it was held that suits for possession after a decree for foreclosure has been obtained do not fall within Section 7, clause 9 of the Court-Fees' Act, and further that the true valuation of such a suit for purposes of Court-fee is regulated by clause 5 of the section. Similarly in P. R., 86 of 1892, *Fateh Muhammad Khan versus Mohan Lal*, it was ruled that a



suit by a mortgagee claiming possession of mortgaged land as such under the terms of his mortgage deed falls under section 7, clause 5, of the Court-Fees' Act.

In cases in which it is competent to the mortgagor to sue to recover a portion of the mortgaged property, the mortgage debt must be regarded as distributed over the whole property, and as regards the portion of the property sued for, "the principal money expressed to be secured" must be taken to the proportionate amount of the debt for which such portion of the property is liable. *Balkrishna Dhondo, versus Nagnekar*, I. L. R., 6 Bom., 324. This ruling was adopted and approved by the Allahabad High Court in *Anant Begum versus Bhagan Lal*, I. L. R., 8 All., 438.

In a suit in the Court of a Subordinate Judge to redeem certain land on payment of Rs. 1,625 being a quarter of a debt for which it had been mortgaged together with other land a decree was passed for redemption of part of the land, but the Court held that the plaintiff had not established his right to the rest. The plaintiff appealed to the High Court paying *ad valorem* Court-fees computed on the value of the land exonerated only, *Held* :—(1) that the *ad valorem* Court-fees should be computed on one-fourth of the mortgage debt. *Wasudeo versus Madhana*, I. L. R., 16 Mad., 326. Where a mortgager sues for redemption on the allegation that the mortgage debt has been satisfied and a decree for redemption is passed on payment of a certain amount and the mortgagor appeals against the amount he is ordered to pay, the Court-fee payable on the memorandum of appeal must, under S. 7, clause 9, of Act 7 of 1870, (Court-Fees' Act), be computed according to the principal money expressed to be secured by the instrument of mortgage and not according to the balance which the mortgagor alleges to be due. *Porbhu Narain Singh*



*versus Sita Ram*, I. L. R., 13 All., 94. *Semle*. If the decree had allowed redemption on payment of a certain sum, and the defendant mortgagee was appealing on the ground that the amount due was greater than that sum, the Court-fee should be calculated on the difference between the sum mentioned in the decree and amount alleged by the appellant to be due. *Ibid*. A decree having been given by the lower Courts in a redemption suit directing that the mortgaged property should be redeemable on payment of the amount expressed to be secured by the mortgage deed, *viz.*, Rs. 1,152-15-4 to the defendant Moro and two others,—appeals were preferred to the High Court by Umarkhan and Moro, each of them presenting a separate memorandum of appeal. A question arose as to what Court fees should be levied on them. On reference by the Taxing Officer of the Court, *Held*:—that Court-Fees to be computed upon each memorandum of appeal was, under section 7, clause 9, of the Court-Fees' Act, to be according to the principal money expressed to be secured by the deed of mortgage, *viz.*, Rs. 1152-15-4. *Umar Khan versus Mahomed Khan*, I. L. R., 10 B. 41.

x. In suits for specific performance—  
for specific performance ;

- (a) of a contract of sale—according to the amount of the consideration :
- (b) of a contract of mortgage—according to the amount agreed to be secured :
- (c) of a contract of lease—according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term :
- (d) of an award—according to the amount or value of the property in dispute :



Where the plaintiff sought to recover possession of a date garden on the allegation that he had been put into possession under two deeds of mortgage and had been subsequently ousted by the defendants, *Held* :—that the suit was not one for specific performance of the Contract of mortgage, so as to fall under clause 10 (b) of section 7, of the Court-Fees' Act, but that the suit fell under para. (e) of clause 5, of section 7, of the Act, and an *ad valorem* fee was necessary on the value of the garden. *Chela Mal versus Fazl Beg*, P. R., 33 of 1880. See also P. R., 56 of 1892.

Where a plaintiff sued for possession of certain land on the allegation that the defendant in his father's life-time borrowed Rs. 165, promising on his father's death to put plaintiff in possession of the land in suit as mortgagee, it was held by Campbell, J., that the suit was one for specific performance of a contract of mortgage, and that the appeal must be valued at Rs. 165, the amount agreed to be secured, under clause 10 (b) of S. 7 of the Court-Fees' Act. C. A. No. 199 of 1875.\* But a suit by a mortgagee for delivery of possession of land actually mortgaged to him, should be valued under this clause and not under clause 10 (b). C. A. No. 134 of 1875. So, where a plaintiff sought to recover possession of a date garden, on the allegation that he had been put into possession by two deeds of mortgage and had been subsequently ousted by the defendant, it was held, that the suit was not one for specific performance of a contract of mortgage, so as to fall under cl. 10 (b) of S. 7 but that the suit fell under clause 5 (e) of S. 7 and an *ad valorem* fee was necessary on the value of the garden. *Chela Mal versus Fazl Deen* P. R., 33 of 1880. It has also been held, that a suit for possession of land under a deed of sale is not a suit for specific performance of a contract of sale within the meaning

\* These rulings have been taken from Olifford's Court-Fees' Act, p. 12.



of clause 10 (a) of S. 7, but is a suit for possession of land, the value of which should be computed under clause 5. C. A. No. 563 of 1874.\* Where the plaintiffs in a suit sought to recover land alleged to have been sold to them by the defendants under a conveyance deed, it was held by the High Court of Madras that the suit must be valued as a suit for recovery of the land, not as a suit for specific performance of a contract of sale, the allegation of the plaintiffs being that there was an absolute conveyance though no delivery of possession. (Opinion of Acting C. J., High Court Madras 28th January 1894 quoted at page 113 Digest of Rules and Order of High Court of Madras, Ed. 1873).\*

between landlord and tenant. xi. In the following suits between landlord and tenant:—

- (a) for the delivery by a tenant of the counterpart of a lease,
- (b) to enhance the rent of a tenant having a right of occupancy,
- (c) for the delivery by a landlord of a lease,
- (d) to contest a notice of ejectment,
- (e) to recover the occupancy of land from which a tenant has been illegally ejected by the landlord, and
- (f) for abatement of rent—

according to the amount of the rent of the land to which the suit refers, payable for the year next before the date of presenting the plaint.

A suit to contest a notice of ejectment on the ground that plaintiff is entitled first to receive compensation for improvements effected by him on the land before he can be ejected, must be stamped under section 7, clause 11 (d) of the Court-fees Act in accordance with the amount of rent payable for

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\* These rulings have been taken from Clifford's Court-Fees' Act, p. 12.



the previous year. *Nurulla versus Attar Singh*, P. R., 111 of 1883. In a suit to eject a defendant as being a tenant at will, the Court-fee upon the plaint or memorandum of appeal is annas 8 under Schedule 11, article 5 of the Court-Fees' Act. Clause 11 (d) of section 7, of that Act applies only to suits brought by a tenant to dispute the validity of his landlord's notice to quit. *Nurjahan versus Marfan Mundal*, 11 C. L. R., 91.

8. The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the acquisition of land for public purposes shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

Fee on memorandum of appeal against order relating to compensation.

An appeal against an award made by the District Judge under Land Acquisition Act I of 1894, was filed in the High Court, the appeal memorandum bearing a Court-fee stamp of Rs. 10 only. On the appeal having been posted for hearing, it was objected on the part of the respondent that the stamp paid was insufficient. *Held*, that the appeal memorandum should have borne an *ad valorem* stamp under Court-Fees' Act, Section 8. *Kasturi Cheti versus Deputy Collector, Bellary*, I. L. R., 21 Mad., 269.

9. If the Court sees reason to think that the annual nett profits or the market-value of any such land, house or garden as is mentioned in section 7, paragraphs 5 and 6, have or has been wrongly estimated, the Court may, for the purpose of computing the fee payable in any suit therein mentioned, issue a commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the Court.

Power to ascertain nett profits or market-value.



The procedure laid down in this section and the following one may be adopted at any stage of the case by the Court of first instance. *Jhanda Khan versus Bahadur Ali*, P. R., 3 of 1893, p. 36, para. 2.

Sections 9, 10 and 11 of the Court-Fees' Act relate to suits and do not relate to appeals. *Balkaran Rai versus Govind Nath Tewari*, I. L. R., 12 All., 129. F. B.

10. i. If in the result of any such investigation the Court finds that the nett profits or market-value have or has been wrongly estimated, the Court, if the estimation has been excessive, may in its discretion refund the excess paid as such fee : but, if the estimation has been insufficient, the Court shall require the plaintiff to pay so much additional fee as would have been payable had the said market-value or nett profits been rightly estimated.

ii. In such case the suit shall be stayed until the additional fee is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

See Notes under S. 9.

Section 54 of the Civil Procedure Code, applies only to the initial stages of a suit before a plaintiff has been registered, whereas the application of section 10 of the Court-Fees' Act is not susceptible of restriction to any particular stage. *Valiya Kesava Vadhyar versus Suppanair*, I. L. R., 2 Mad., 308. But in *Jhanda Khan versus Bahadur Ali*, P. R., 3 of 1893, it was held, that section 54 of the Civil Procedure Code is not applicable only to the initial stages of a suit before the plaintiff has been registered, but also empowers a court to reject a plaintiff on the grounds stated in the section at any later

Procedure where nett profits or market-value wrongly estimated.

Stage at which power under this section may be exercised.



stage of the case prior to its final decision. It was also observed in this ruling at page 36, that Sections 9 and 10 of the Court-Fees' Act read in complete harmony with Section 54, Civil Procedure Code, and the result of both sections is the same, viz., that dismissal of the suit or rejection of the plaint is only to be resorted to, when the additional fee found to be due is not paid within the time fixed by Court. *See Sri Kishen Das versus Pir Bakhsh*, P. R., 126 of 1888 to the same effect. The Allahabad High Court in a dissenting judgment held that the Court can make an order under section 10 of the Court-Fees' Act, even after the determination of a suit. Mahmood, J, (dissenting) held, that the power conferred by this section is intended to be exercised before the disposal of the case and not after it has been decided finally, so far as the Court is concerned. *Mahadei versus Ramkishen Das*, I. L. R., 7 All., 528. The Court-fee should be collected before passing the decree. *Krishnasami versus Sundarappayyar*, I. L. R., 18 Mad., 417, para. 3.

This section is not imperative, so as to compel the Court to dismiss a suit, when the default is not wilful. The object of the section is to protect the revenue and not to impose penalties. *Majlis versus Munna Singh*, P. R., 84 of 1876.

**11.** In suits for mesne profits or for immoveable property and mesne profits, or for an account, if the profits or amount decreed are or is in excess of the profits claimed or the amount at which the plaintiff valued the relief sought, the decree shall not be executed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount so decreed shall have been paid to the proper officer.

Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed.



Where the amount of mesne profits is left to be ascertained in the course of the execution of the decree, if the profits so ascertained exceed the profits claimed, the further execution of the decree shall be stayed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits so ascertained is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

No stamp is payable in respect of the mesne profits, sub-

Stamp not required for subsequent to the institution of the suit.  
future mesne profits.

*Ramakrishna Bhikaji versus Bhimabai*, I. L. R., 16 Bom., 416 ; I. L. R., 21 Mad., 371.

The term suit in the section should be construed as con-

Meaning of suit.

finied to that part of the suit in question

which relates to mesne profits. Hence,

the "decree" the execution of which is prohibited by this section until the proper Court-fee is paid is not the whole decree, but such part of it as relates merely to the mesne profits. *Ful Chand versus Bai Ichha*, I. L. R., 12 Bom., 1898.

Where a plaintiff knowingly fixes a certain rate of mesne profits which he claims to recover, he

When plaintiff bound by his own valuation.

is bound by his own assessment and is

not entitled to recover more. *Karoo Lal*

*Thakar versus Forbes*, 7 W. R., 140. The plaintiff brought a suit for possession and for a certain sum as mesne profits, which he assessed at three times the annual rental paid by tenants in actual possession of the land. He obtained a decree for possession and the decree ordered that the amount of mesne profits due to him should be determined in the execution proceedings. On an investigation it was found that a larger sum should be decreed to him for mesne profits than that claimed by him in his suit. The plaintiff therefore paid the excess fee as provided by para. 2, of S. 11, of Act VII



of 1870 ; but held that the amount of mesne profits recoverable by him must be limited to the amount claimed in the plaint, and that the general rule that a plaintiff cannot recover more than he claims in his plaint ought not to be departed from except under special circumstances. *Baboojan Jha versus Byjnath Dutt Jha*, I. L. R., 6 Cal., 474 ; *Gooru Dos Roy versus Bungshee Dhur Sein*, 15 W. R., 61. In *Lukheskant Doss versus Deen Dyal Doss*, 14 W. R., 82, it was held, that even with respect to the claims as stated in the plaint that would be subject to the result of further investigation. Where the plaint only gives the approximate value of mesne profits, a decree for a larger sum may be given if so found on investigation. *Perree Soondurree Dossee versus Eshan Chunder Bose*, 16 W. R., 302.

12. i. Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this chapter on a plaint or memorandum of appeal shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit.

Decision of questions as to valuation.

ii. But whenever any such suit comes before a Court of appeal, reference or revision, if such Court considers that the said question has been wrongly decided, to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and the provisions of section 10, paragraph 2, shall apply.

The decision of the Court of first instance upon a question relating to valuation, not affecting the question of category, is final. *Pir Muhammad versus Ghulam Haidar* P. R.

What decisions are final.



42 of 1874 ; *Shah Alum versus Mahmud*, P.R., 2 of 1889 ; *Gunga Monee Chodhrain versus Gopal Chander Roy*, 19 W.R., 214 ; *Chunia versus Ram Dial*, I. L. R., 1 All., 360. ; *Ali Khan versus Umar-daraz Ali Khan*. I. L. R., 19 All., 165. Questions relating to the amount of Court-fees payable are alone final. *Annamalai Chatti versus Clockte*, I. L. R., 4 Mad., 204 ; *Balkaran Rai versus Gobind Nath Tewari*, I. L. R., 12 All., 129, 154. Where it is not a mere question of amount or arithmetical calculation this section does not apply and no finality attaches. *Kanaran versus Kamappan*, I. L. R., 14 Mad., 169. The Bombay High Court, however, differs in its interpretation of S. 12 of the Court-Fees Act. The leading case is the Full Bench decision in *Vethal Krishnan versus Balkrishnan*, I. L. R., 10 B., 610, in which, West, J., who delivered the judgment of the Full Bench, stated the rule to be, "that on the question of valuation by the judge an appeal lies against his decision ; but that once it is found that a valuation made by him was within his proper functions, his decision and several essential elements of it are conclusive as between the parties and not subject to examination in appeal." This rule was maintained in *Sardansingji versus Ganpatsingji*, I. L. R., 17 B., 56. This ruling is considered to lay down a more restrictive rule, which was not approved of in *Bawa Mangal Dass versus Mahant Niranjan Das*, P. R., 56 of 1895. Rivaz, J., who delivered the judgment in the last named case observed, "that Section 12 of the Court-Fees Act should be construed as enacting finality only in the matters of the actual assessment of the valuation of the property ; and as allowing an appeal to proceed upon all questions of the construction of the Act, whether the contention is as to the section or clause applicable, or as to the meaning of any particular clause or section."

<p>The object of the Power of Court of appeal, Reference or Revision when to be exercised,</p>	<p>proviso to S. 12, Act VII of 1870, is to enable the appellate Court to inter- fere for the protection of revenue in a</p>
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case where the question of valuation is raised and improperly decided. *Uala Chand Sen versus Anund Kristo Bose*, 22 W. R., 433 ; but where the question has been wrongly decided to the detriment of the subject, and to the advantage of the revenue, the Court of appeal, reference or revision cannot interfere. *Manohar Ganesh versus Bawa Ram Charan Das*, I. L. R., 2 Bom., 219. This power cannot be exercised until the appeal has been admitted, and the power to dismiss the suit can be exercised only if it has jurisdiction over the whole subject matter. Thus where a portion only of a decree is appealed against the original suit cannot be dismissed. *Kereb Varma versus Chandyan Kulli*, I. L. R., 15 Mad., 18. The appellate Court cannot dismiss the original suit while the appeal is pending ; and, every order passed under this clause must be communicated to the party whom it is intended to bind. *Kamalhi versus Kunhamed*, I. L. R., 15 Mad., 288. In *Mahadei versus Ramkishin Das* I. L. R., 7 All., 528 it was held (per Mahmud, J.) " that powers conferred by S. 12 of the Court-Fees Act read with clause 2 of S. 10, are intended to be exercised before the disposal of the case, and not after it has been finally decided so far as the Court is concerned." (Per Oldfield J). " That the Court has power to make an order under S. 12, even after the determination of the case, in as much as the collection of Court-fee is no part of Judge's functions in the trial of suit, which can be said to cease with its determination ; and the provisions of the Court-Fees Act fix no time, within which the presiding Judge can exercise his power of ordering documents to be stamped but seem on the other hand to contemplate the exercise of that power at any time, subsequent to the receipt, filing or use of a document, and to make the validity of the document dependent on its being properly stamped." A Court of appeal to which an appeal has been wrongly presented cannot pass orders for the payment of the addi-



tional fee alluded to in Section 12 (ii) of the Court-Fees Act. *Fateh Muhammad Khan versus Mohan Lal*, P. R., 86 of 1892.

A decision by a subordinate Court on a question of valuation determining the amount of Court-fee is, notwithstanding its declared finality, subject to revision by the High Court under S. 622, of the Civil Procedure Code. *Vithal Krishn versus Balkrishan Janardhun*, I. L. R., 10 B., 610, F. B.

The decision of a Court on a question of the Court-fee payable on a plaint or memorandum of appeal which is to be "final as between parties to the suit" must be a decision made between the parties on the record and after they had an opportunity of being heard, and not a mere decision based on the report of a Munsarim before the plaint or memorandum of appeal is filed, and therefore before any parties are before the Court. *Amjad Ali versus Muhammad Israil*, I. L. R., 20 All., 11. The words "every question relating to valuation shall be decided by the Court," do not carry with them the meaning that a distinct question or issue relating to valuation must be raised and a formal decision thereon passed by the Court of first instance, before a Court of appeal can interfere. *Shama Soondery versus Hurro Soondery*, I. L. R., 7 Cal., 348. Where no question had arisen in or decided by the first Court, as to the amount of fee chargeable; it was held, that the second paragraph of S. 12 of the Court-Fees Act was inapplicable and the lower appellate Court was not competent to require from the plaintiffs an additional fee in respect of the first court. *Mela Mal versus Harbhaj*, P. R., 115 of 1884. An objection as to stamp taken by the defendant in the first Court, was not disposed of by any formal order; it was held that the question of valuation was raised and "wrongly decided" defendant's objection being overruled by implication. *Mussammatt Fatima Begum versus Muhammad Zakaria*, P. R. 96 of 1895.



The Court fee should be collected before passing the decree. *Krishnasami versus Sunderappagayar*, I. L. R., 18 Mad., 415.

Before taking action under this section the Court must fix a time within which the additional fee has to be paid. A Court moreover is not justified in rejecting a plaint or appeal on the ground that the plaintiff or appellant has fraudulently undervalued the relief sought, if he is ready and willing to supply additional stamps to make up the proper amount which would have been levied had the relief sought been properly valued in the plaint or memorandum of appeal. *Amballa Ramaswami Iyaryar versus Muhammad Ali Ravatan*, 5 Mad., H. C. Rep., 330.

13. If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, (Act XIV of 1882), is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in section 562 of the same Code, for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of fee paid on the memorandum of appeal :

Provided that, if, in the case of a remand in appeal the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.



*Held*, by the majority of the Court (Loch, J. dissenting, and Campbell, J. doubting) that where an

Remanded in part.

appeal is remanded in part, the appellant is entitled to a return of a proportionate part of the stamp duty paid by him. *In the matter of the petition of Durga Das*, B. L. R., Sup. Vol., 511.

Provision is made in Ss. 10, 13, 14, and 15 for the refund of Court-fees in certain cases,

Power of refund limited to certain cases.

by the Court, and its power is limited to cases specified in these sections, but

there is nothing in the law preventing the Government from refunding any amount, which they may think the plaintiff was improperly ordered to pay. *In the matter of the petition of Moulvie Syed Zoynood Din Hussain Khan*, 11 B. L. R. A. C., 370.

The Government has directed that excess stamps put in by mistake in matters of administration should be refunded. I. G. Notification No. 2025 of 1872.

14. Where an application for a review of judgment is presented on or after the ninetieth day from the date of decree, the Court, unless the delay was caused by the applicant's laches

Refund of fee on application for review of judgment.

may, in its discretion, grant him a certificate authorizing, him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day.

In computing the period of ninety days within which the application must be presented to entitle it to be stamped at half-rates under Art. 5, Sch. 2 Court-Fees Act, the time during which the Court happens to be closed for vacation cannot be excluded. *In re Kota*, I. L. R., 9 M., 134. *Ruldi Mal versus Sobha*, P. R., 39 of 1879. See to the same effect,



*In the matter of Doorga Prosunno Ghose*, 9. C. L. R., 479. In the latter case the High Court remarked that the Court, if satisfied that the delay was not caused by the laches of the applicant, might direct a refund of one half of such fee.

If the Court, on, application made under S. 70, and on which a fee has been paid under the last preceding Section sets aside or modifies the decree or order of a subordinate Court, or remands the case for a fresh decision, it may grant to the applicant a certificate authorizing him to receive back from the Collector, the full amount of fee paid on the application, or any smaller amount which, with regard to the circumstances of the case, it may think proper to order to be refunded S. 72 Act 18 of 1884. (Pnnjab Courts Act).

Refund where Court reverses or modifies its former decision on ground of mistake.

15. Where an application for a review of judgment is admitted, and where on the re-hearing the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee payable on any other application to such Court under the second schedule to this Act, No. 1, clause (b) or clause (d).

But nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

There are no provisions in the Court-Fees Act, other than those already noted, and those to be hereafter noted when



treating of Chapter III A. for the refund of fees paid into Court ; consequently a Court has no power, under the Act, to grant a certificate authorizing a plaintiff or appellant to receive back from the Collector any excess of stamp duty paid under the orders of the Court, its power being limited to the cases specified in Ss. 10, 13, 14 and 15 ; at the same time if the Government think that plaintiff or appellant was improperly ordered to pay a sum of money which was not due, there can be no difficulty in their refunding that amount to him, notwithstanding the absence of any provisions of the law authorizing them to do so. *In the matter of the petition of Moulvie Syed Zoynooddeen Hussain Khan*, 11 B. L. R., 378. Application for refund under this ruling should be sent to the Financial Commissioner through the Superintendent of Stamps. (Punjab Stamp Manual, 1888 para. 119 ).

16. When any appeal is presented to a Civil Court,

not against the whole of a decision,

Additional fee where  
respondent takes objection  
to un-appealed part of  
decree.

but only against so much thereof as  
relates to a portion of the subject-  
matter of the suit, and, on the

hearing of such appeal, the respondent takes, under section 561 of the Code of Civil Procedure, (Act XIV of 1882), an objection to any part of the said decision other than the part appealed against, the Court shall not hear such objection until the respondent shall have paid the additional fee which would have been payable had the appeal comprised the part of the decision so objected to.

The costs of a suit are no part of the subject matter in

Subject-matter of the dispute. *Doorga Das Chowdhery versus*  
suit—costs.

*Ram Nath Chowdhery*, 8 M. I. A., 262.

See also *Nilmadhub versus Bishambar Das*, 13 M. I. A., 8. The same view was taken by the Madras High Court in its Proceedings dated 10th November 1875, No. 2739. In a subsequent



case the Registrar of the High Court of Madras quoting the above named rulings in his order of reference, referred the following question for decision of the High Court:—  
 “When apart from, and independently of, any other relief which an appellant seeks in an appeal from a decree, he seeks distinct relief on the ground that by the decree under appeal the costs of the parties in the proceedings which terminated with the decree have not been properly assessed or apportioned should the value of such distinct relief be reckoned as part of ‘the subject matter in dispute’ for the purposes of the first schedule of the Court Fees Act, or should the said value be excluded from computation.” *Decision*—The appellant has made the costs the subject matter of dispute, and therefore a Court fee stamp is leviable *In re Manki and In re Raman*, I. L. R., 11 Mad., 350. Where the appellants appeal only in respect of costs incurred in the suit, the costs form a distinct subject-matter in dispute and the memorandum of appeal is chargeable accordingly. *Krishnaji versus Babaji* P. J., 1892, p. 52.

When the appeal of an appellant is against the whole of a decision of the lower Court, and upon the full value of the original suit, no additional stamp-duty is required in respect of the respondents objection under this section. *Anund Mohun Chatterji versus Sutturam Mozumdar*, 8 W. R., 124. Plaintiff in a suit included two distinct claims—(1) for specific performance of a contract of sale in respect of the house in dispute, on payment of the price agreed upon, and (2) for pre-emption of the same at the market value, the decree in the latter form being prayed for if he was not found entitled to the former. The plaintiff was stamped with the value of the first claim only. The first Court decreed these claims in the alternative and they were both included in defendant's appeal to the Divisional Judge, which was valued on the same principle as plaintiff. The Divisional Judge reversed the decree as regards the first claim,

Appeal against a portion of the subject-matter.



but upheld it as regards the second. Thereupon the defendant appealed to the Chief Court as to the latter portion of the Divisional Judge's judgment while cross-objections were filed as regards the former. *Held*, that the plaint required cumulative fee on the two claims and that the respondent was bound to stamp his cross-objections, calculated on the value of the claim for specific performance, about which defendant had not appealed. *Mussammat Fatima Begam versus Muhammad Zakaria*, P. R., 96 of 1895. Where the decree grants only partial relief and the plaintiff appeals, the fee payable on the memorandum of appeal is to be calculated on the difference between the relief claimed and the relief granted. *Moro Vishnanath versus Ganesh Vithal*, 10 B. H. R. A. C., 445; *Lukham Chander Ash versus Khoda Bakhsh Mondal*, I. L. R., 19 Cal., 272; *Gurji Nand versus Saluji Nand*, I. L. R., 23 C., 645, 51.

A respondent is not entitled to file cross-objections *in forma pauperis* i.e., without payment of stamp duty. *Babaji Hari versus Raja Ram Balab*, I. L. R., I Bom., 75; *Narayan versus Krishna*, I. L. R., 8 Mad., 214; *Rashmonee Dasee versus Chowdhery Jonmojoy Mullick*, 9 W. R., 356; *Brojeshwari Dasi versus Gooru Charan Das*, I. L. R., 11 C., 735; Mad. L. Journal 1892, 261; 2 Cal. W. N., 197.

This would mean that the fee may be paid at any time before the objections are heard, and not when the objections are filed under S. 561 of the Civil Procedure Code. *Rashmonnee Dassi versus Chowdhery Jonmojoy*, 9 W. R., 356.

Court shall not hear such objections.

17. Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits

Multifarious suits.



embracing separately each of such subjects would be liable under this Act.

Nothing in the former part of this section shall be deemed to affect the power conferred by the Code of Civil Procedure (Act XIV of 1882), section 45, paragraph 2.

The plain object of this section is to prevent any loss

Object of the section.

to the revenue owing to separate causes

of action being lawfully combined in

one suit. The fees to be paid are to be

the same as if *separate suits* had been filed. If a plaintiff sues the same defendant upon two separate hundis for Rs. 1,000 each, and combines his two causes of action in one suit, he cannot claim to pay Court-fees calculated on a lump sum of Rs. 2,000, which would be Rs. 125, but he must calculate Court-fees on two claims for Rs. 1,000 each, which comes to Rs. 150. (Per Rivaz, J.) *Mussammatt Fatima Begam versus Muhammad Zakaria*, P. R., 96 of 1895, p. 460.

The words "distinct subjects" mean distinct causes of action

or distinct kinds of relief. For example ;

Distinct subjects.

if a suit is brought for the recovery of

an inheritance, although the inheritance

might consist of different properties and properties differing in kind, the fee would be computed on the aggregate value of the one subject of the suit. But where a suit is brought (1) for the recovery of an inheritance, (2) for an injunction, and (3) for the amount of a bill of exchange accepted by the defendant, each of these three subjects would be distinct, and the fee chargeable would be the aggregate of fees chargeable in respect of each subject if sued for in a separate suit, *Chamaili Rani versus Ram Dai*, I. L. R., 1 All., 522, F. B. Per Spankie, J., 'distinct subject' mean every separate matter distinctly forming a subject of the claim, *Ibid.* In *Mul Chand versus Shib Charan Lal*, I. L. R., 2 All., 676, F. B., the Allahabad High



Court unanimously held that this section refers to multifarious suits, *i. e.*, to suits in which separate and distinct causes of action are joined under S. 45 of Act X of 1877 (XIV of 1882,) and not to a suit in which there was only one cause of action. In this case Spankie, J., said "I would therefore say regarding the two or more distinct subjects of a suit, that they are the 'subject matters of a suit' in which several causes of action have been united under the provisions of S. 45, subject to the rules contained in S. 44 of Act No. X of 1877, and therefore in such a suit the plaint or memorandum of appeal is chargeable with the aggregate amount of the fees to which each plaint or memorandum of appeal would be chargeable under the Act. The words be it observed are 'would be liable,' not 'is liable' under the Act. There must therefore be several causes of action and these several causes of action must be united in the same suit, and the subject matters, or "two or more distinct subjects," must be charged as if each cause had not been so united in the same suit, but had been taken into Court by separate claim or memorandum of appeal," *Ibid.* The terms "two or more distinct subjects" are equivalent to "two or more distinct causes of action," and this section refers to multifarious suits in which two or more distinct causes of action have been joined under S. 45 of the Code of Civil Procedure." I. L. R., 15 All., 401. *Reference under the Court-Fees Act 1870, S. 5.* "Distinct subjects mean distinct causes of action." *Mussammatt Fatima versus Muhammad Zakaria*, P. R., 96 of 1895. *Rama Varma versus Kidar*, I. L. R., 15 Mad., 415.

This section is applicable only to a case of cumulative relief sought by the plaintiff. Where the plaintiff, sues in the alternative, for one of two reliefs, the larger of the two reliefs sought determines the amount of the stamp. This section does not apply to such a case. *Kashi Nath Narayan versus Govinda*, I. L. R., 15 Bom., 82. Where a plaintiff sued, alleging a con-

#### Alternative relief.



tract to sell him a house for Rs. 2,500, and a subsequent sale to a third party, and prayed for a decree either for (1) specific performance of the contract of sale or (2) for pre-emption on the sale, the suit was held to embrace two "distinct subjects" within the meaning of S. 17 of the Court-Fees Act even though alternative and not cumulative relief was asked for. *Mussammât Fatima versus Muhammad Zakaria*, P. R., 96 of 1895

This section applies only to plaints and memoranda of appeals in suits and not to applications or appeals therefrom. *Upadhyâ Thakur versus Persadh Singh*, I L R., 23 Cal., 723

F. B. The application of this section is subject to the proviso at the end of Art. 1, Sch. I of the Court-Fees Act, and the maximum fee leviable is Rs. 3,000. *Rughabir Singh versus Dharam Singh*, I. L. R., 3 All., 108 F. B.

A suit upon one and the same cause of action for possession of immoveable property and for mesne profits or damages for the wrongful retention of such property, is not a suit embracing two or more distinct subjects. *Kishori Lal Roy versus Sharut Chunder Moozomdar*, I. L. R., 8 Cal., Reference under the Court-Fees Act, 593. I. L. R., 16 All., 401. Neither a suit for recovery of rent under S. 93 (h) of the N. W. P. Rent Act, in respect of several years, *Muhammad Malik Khan versus Nerhai Bibi*, I. L., 7. A., 761., S. C. W. N. 1885, p. 218; nor one where the plaintiff sues upon an agreement with defendant for the payment by the latter of part of the cost of a party wall and also, apart from agreement, for a contribution towards the cost of the same, *Puraj versus Sajan*, P. J., 1887, p. 8., is a suit embracing "distinct subjects" within the meaning of this section.



But the following suits and appeals have been held to fall within the provisions of this section

Multifarious suits.

A suit by a reversioner for declaration that different alienations made by a

Hindu widow are invalid. *Daivichelaja Pillai versus Ponnuthal*, I. L. R., 18 Mad., 459. A suit to recover a sum due on a *khata*, representing the aggregate sum payable in respect of seven separate transactions. *Ram Chandra versus Appayi P.J.*, 1887, p. 271. A suit for certain money with interest and a declaration of plaintiff's right as equitable mortgagee to be first paid out of certain specified property. *The Simla Bank Corporation Limited versus Narpat Rai*, P. R., 43 of 1888. A suit under S. 283 Civil Procedure Code against the execution creditor and judgment debtor for a declaration of the plaintiff's title to the property under attachment as against the judgment debtor, and also for a declaration in denial of the judgment creditor's right to bring the property to sale in execution of his decree; *Moti Singh versus Kunsilla*, I. L. R., 16 A., 308 F. B. A claim for possession and damages. *Chamaili Rani versus Ram Das*, I. L. R., 1 A., 532, F. B. A memorandum of appeal objecting, to the costs awarded by the Court below, independently of any other relief sought by the appellant. *In re Makki*, I. L. R., 19 Mad., 350.

18. When the first or only examination of a person

Written examinations of complainants.

who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police-officers may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the Code of Criminal Procedure, the complainant shall pay a fee of eight annas, unless the Court thinks fit to remit such payment.



Exemption of certain documents.

19. Nothing contained in this Act shall render the following documents chargeable with any fee :—

- i. Power-of-attorney to institute or defend a suit when executed by an officer, warrant officer, non-commissioned officer or private of Her Majesty's army not in civil employment.
- ii. Repealed by Act XXII of 1891, Sch. I.
- iii. Written statement called for by the Court after the first hearing of a suit.

A written statement of his case, tendered by a party to a suit, at any time before or at the first hearing of the suit, is not liable to any Court-fee and may be written on plain paper. A written statement called for by the Court after the first hearing, is also exempt from stamp duty. *Nagu versus Yeknath*, I. L. R., 5 Bom., 400. The Calcutta High Court following the above decision also held that a written statement filed by a defendant in a Civil Suit at the first hearing does not under the existing law require a Court-fee stamp. *Cherag Ali versus Kadir Mahomed*, 12 C. L. R., 367. See Chief Court Circular Memo No. 3 dated 21st February 1882.

A written statement by either party in appeal is essentially a petition, whether it is so in form or not, and essentially different from a written statement under section 110, Civil Procedure Code. Chief Court letter No. 3661, dated 20th October 1887.

A set off under section 111 of the Civil Procedure Code, has the same effect as a plaint in a cross-suit, and is chargeable with the Court-fee which would be payable on a plaint of that nature. *Amir Zama versus Nathu Mal*, I. L. R., 8 All., 396.



*Bai Shri Majirajhai versus Narotam Hargonan*, I. L. R., 13 Bom., 672. *Chennapa versus Raghunath*, I. L. R., 15 Mad., 29.

- iv. Repealed by Act XIII of 1889.
- v. Plaints in suits tried by Village Munsiffs in the Presidency of Fort St. George.
- vi. Plaints and processes in suits before District Panchayats in the same Presidency.
- vii. Plaints in suits before Collectors under Madras Regulation XII of 1816.
- viii. Probate of a will, letters of administration, "and, save as regards debts and securities, a certificate under Bombay Regulation VIII of 1827" (1), where the amount or value of the property in respect of which the probate or letters or certificate shall be granted does not exceed one thousand rupees.

But where the value exceeds one thousand rupees a duty of two per cent is charged under article 11, schedule 1, on the whole amount and not only on the excess over one thousand rupees.

- ix. Application or petition to a Collector or other officer making a settlement of land-revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of land or the ascertainment of rights thereto or interests therein, if presented previous to the final confirmation of such settlement.

Das  
Jammu & Kashmir  
Srinagar.



This exemption does not extend to judicial suits in the Revenue Courts.

- x. Application relating to a supply for irrigation of water belonging to Government.
- xi. Application for leave to extend cultivation, or to relinquish land, when presented to an officer of land revenue by a person holding, under direct engagement with Government, land of which the revenue is settled, but not permanently.
- xii. Application for service of notice of relinquishment of land or of enhancement of rent.

This clause does not extend to applications for service of notice of ejectment under section 43 of the Punjab Tenancy Act, 1887. (Financial Commissioner's letter No. 545, dated 30th January 1888 (Punjab).

- xiii. Written authority to an agent to distrain.
- xiv. First application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court.
- xv. Bail-bonds in criminal cases, recognizances to prosecute or give evidence, and recognizances for personal appearance or otherwise.



- xvi. Petition, application, charge or information respecting any offence, when presented, made or laid to or before a Police-officer, or to or before the Heads of Villages or the Village Police in the territories respectively subject to the Governors in Council of Madras and Bombay.
- xvii. Petition by a prisoner, or other person in duress or under restraint of any Court or its officers.

A judgment debtor in custody applied to be declared an insolvent under Chapter XX of the Code of Civil Procedure; the application was refused, and the judgment debtor appealed against the order rejecting his application, the memorandum of appeal being on plain paper; it was held that, under clause 17 of section 19, no Court-fee was leviable. *Kali Prasad Banerji versus Gisbourne & Co.*, I. L. R., 10 Cal., 61. S. C., 13 C. L. R., 156.

- xviii. Complaint of a public servant (as defined in the Indian Penal Code (Act XLV of 1860), a municipal officer, or an officer or servant of a Railway Company.

A complaint preferred by a Munsiff under S. 168 of the Criminal Procedure Code need not, though it do not bear the seal of the Munsiff's Court, be on stamped paper. *Reg. versus Sajjan Valad Vithie*, 5 Bom., H. C. Cr., 104.

No process fee is leviable on complaint made by Municipal Officers. *Queen Empress versus Khajaboy*, I. L. R., 16 M., 423.

- xix. Application for permission to cut timber in Government forests, or otherwise



relating to such forests.

- xx. Application for the payment of money due by Government to the applicant.
- xxi. Petition of appeal against the chaukidari assessment under Act No. XX of 1856, or against any municipal tax.
- xxii. Applications for compensation under any law for the time being in force relating to the application of property for public purposes.
- xxiii. Petitions presented to the Special Commissioner appointed under Bengal Act No. II of 1869, (*to ascertain, regulate and record certain tenures in Chota Nagpore.*)
- xxiv. Petitions under the Indian Christian Marriage Act, 1872, sections 45 and 48(5).

#### CHAPTER IIIA.\*

#### PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION.

**19A.** Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a Court-fee thereon, if, within six months after the true value of the property has been ascertained, such person produces the probate or letters to the Chief Controlling Revenue-authority of

Relief where too high a Court-fee has been paid.

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\* Chapter III A was inserted by Act XIII of 1875. S. 6.



the Province in which the probate or letters has or have been granted,

and delivers to such Authority a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation,

and if such Authority is satisfied that a greater fee was paid on the probate or letters than the law required, the said Authority may—

- (a) cancel the stamp on the probate or letters, if such stamp has not been already cancelled ;
- (b) substitute another stamp for denoting the Court-fee which should have been paid thereon ; and
- (c) make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money, at his discretion.

The term “ value ” in the Act, apparently means market value, and the market value of mortgaged property is the value of the equity of redemption. Hence, where the property in respect of which probate is sought is mortgaged, the amount of the mortgage encumbrances must be deducted from the market value of the property and the probate charged on the balance. *In the goods of Charles Edward Maclean*, 6 N. W. P., 216. *In the goods of Peter Innes*. 16 W. R., 253. *In re will of Ram Chandra Lakshumanji*, I. L. R., 1 Bom., 118.

The value of property bequeathed which is subject to an annuity for life is the value of the property less the capi-

Value of property subject to annuity.



talized value of the property. *In the goods of Rushton*, I. L. R., 3 Cal., 734. The value of an annuity is not ten times the amount of a yearly payment but is its market value. *In re will of Ramchandra Lakhshumanji*, I. L. R., 1 Bom., 118.

**19B.** Whenever it is proved to the satisfaction of

Relief where debts due from a deceased person have been paid out of his estate.

such Authority that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or value of the estate,

reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less Court-fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act,

such Authority may return the difference, provided the same be claimed within three years after the date of such probate or letters.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the said Authority may allow such further time for making the claim as may appear to be reasonable under the circumstances.

The full duty must always be paid in the first instance, and if the Deputy Commissioner thinks any refund should be allowed on account of debts paid, he may submit an application, through the Local Superintendent of Stamps, to the



Financial Commissioner for sanction. *Punjab Stamp Manual*, para. 127. This section authorizes a refund only after the full duty has been paid. *In the goods of Ram Chunder Doss*, IX B. L. R., 30. The uncertainty of recovering a debt due to the estate of the deceased person is not a sufficient ground for a proportionate reduction of the duty payable. *In the goods of Beake*, 13 B. L. R., App. 24. *In the goods of Ram Chunder Ghose*, I. L. R., 24 Cal., 567.

According to an English case, doubtful and desperate debts need not be included in the amount on which probate duty is payable, *Moses versus Crafter*, 4 C. and P. 524, but judgment debts cannot be treated as doubtful, whether they may be treated as desperate, in the sense of being unrealizable, is a question of fact. *In the goods of Ram Chandra Ghose*, I. L. R., 24 Cal., 568.

**19C.** Whenever a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate ;

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

If the first duty is paid under this Act no subsequent duty need be paid in respect of the same property. *In the goods of Mosson*, 6 B. L. R., App. 139. *In the goods of Innes*, 8 B. L. R., App. 43. But if the first duty is paid under

Relief in case of several grants.



any other Act, no exemption can be allowed under this section. *In the goods of W. C. Chalmers*, 21 W. R., 46. *In the goods of Gasper*, I. L. R., 3 Cal., 733. If duty is paid on former letters of administration which are afterwards cancelled, the duty so paid should be allowed to be deducted for the amount payable for fresh letters of administration. See 6 B. L. R., App. 139. 8 B. L. R., App. 43. S. C. 16 W. R., 253. This section only provides that the *ad valorem* fee shall not be twice payable in respect of the same property. This section has no application to a case, where the property has not paid any duty here under the Succession Act, and the fact of probate duty having been paid on the same property previously in England by the deceased executrix, is no ground for exempting it from duty in the hands of the Administrator-General. *In the goods of Murch*, I. L. R., 4 Cal., 725.

**19.D.** The probate of the will, or the letters of administration of the effects of any person deceased, heretofore or hereafter granted shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any moveable or immoveable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a Court-fee was paid on such probate or letters of administration.

Probates declared valid as to trust property though not covered by Court-fee.

On the death of a Hindu lady, her father's property to which she had succeeded as a Hindu daughter, (what is commonly known in Hindu Law as "woman's estate,") becomes in the hands of the reversioners, trust property which is exempt from stamp

Trusts property.



duty under the section. *In the goods of Joymonee dossee*, 14 B. L. R., 184. The property left by a co-parcener of a joint Hindu family vests in the surviving co-parceners as trust property, i.e., for the benefit of all the co-parceners. *In the goods of Polmesmull Agurwalla*, I. L. R., 23 C., 980. See also *In the goods of Foreschman*, I. L. R., 20 Cal., 575. Where the joint property stands in the name of the deceased, while in reality, the surviving brother was owner of one half of it, his share is to be considered as trust property and exempt from stamp duty. *In the goods of Brindaban Ghose*, 11 B. L. R., App. 39.

(1) 19E. Where any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a Court-fee thereon, the Chief Controlling Revenue-authority of the Province in which the probate or letters has or have been granted may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full Court-fee which ought to have been originally paid thereon in respect of such value and of the further penalty, if the probate or letters is or are produced within one year from the date of the grant, of five times, or, if it or they is or are produced after one year from such date, of twenty times, such proper Court-fee, without any deduction of the Court-fee originally paid on such probate or letters.

Provided that, if the application be made within six months after the ascertainment of the true value of the



estate and the discovery that too low a Court-fee was at first paid on the probate or letters, and if the said Authority is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper Court-fee, the said Authority may remit the said penalty, and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

Administrator to give proper security before letters stamped under section 19E.

19F. In case of letters of administration on which too low a Court-fee has been paid at first, the said Authority shall not cause the

same to be duly stamped in manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had been then ascertained.

Executors, &c., not paying full Court-fee on probates, &c., within six months after discovery of under-payment.

19G. Where too low a Court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not

being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not within six months after the discovery of the mistake or of any effects not known at the time to have belonged



to the deceased, apply to the said Authority and pay what is wanting to make up the Court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupees per cent. on the amount of the sum wanting to make up the proper Court-fee.

19H. (1) Where an application for probate or letters of administration is made to any Court other than a High Court, the Court shall cause notice of the application to be given to the Collector.

Notice of applications for probate or letters of administration to be given to Revenue Authorities, and procedure thereon.

(2) Where such an application as aforesaid is made to a High Court, the High Court shall cause notice of the application to be given to the Chief Controlling Revenue Authority of the Province.

(3) The Collector, within the local limits of whose revenue-jurisdiction the property of the deceased or any part thereof is, may at any time inspect or cause to be inspected, and take or cause to be taken copies of the record of any case in which application for probate or letters of administration has been made ; and if, on such inspection or otherwise, he is of opinion that the petitioner has under-estimated the value of the property of the deceased, the Collector may, if he thinks fit, require the attendance of the petitioner (either in person or by agent), and take evidence, and inquire into the matter in such manner as he may think fit, and, if he is still of opinion that the value of the property has been under-estimated, may require the petitioner to amend the valuation.



(4) If the petitioner does not amend the valuation to the satisfaction of the Collector, the Collector may move the Court, before which the application for probate or letters of administration was made, to hold an inquiry into the true value of the property :

Provided that no such motion shall be made after the expiration of six months from the date of the exhibition of the inventory required by section 277 of the Indian Succession Act, 1865, or, as the case may be, by section 98 of the Probate and Administration Act, 1881.

(5) The Court, when so moved as aforesaid, shall hold or cause to be held, an inquiry, accordingly, and shall record a finding as to the true value, as near as may be, at which the property of the deceased should have been estimated. The Collector shall be deemed to be a party to the inquiry.

(6) For the purposes of any such inquiry, the Court or person authorized by the Court to hold the inquiry may examine the petitioner for probate or letters of administration on oath (whether in person or by commission), and may take such further evidence as may be produced to prove the true value of the property. The person authorized as aforesaid to hold the inquiry shall return to the Court the evidence taken by him, and report the result of inquiry, and such report and the evidence so taken shall be evidence in the proceeding, and the Court may record a finding in accordance with the report, unless it is satisfied that it is erroneous.



(7) The finding of the Court recorded under sub-section (5) shall be final, but shall not bar the entertainment and disposal by the Chief Controlling Revenue Authority of application under section 19E.

(8) The Local Government may make rules for the guidance of Collectors in the exercise of the powers conferred by sub-section (3).

In an application for probate or letters of administration the *ad valorem* fee prescribed by Statute should be prepaid to the satisfaction of the Court. Such payment must be made to the Registrar and certified by him or by the Taxing Officer where an exemption is claimed and allowed. This certificate should be produced to the Court with the application and affidavit of valuation—*In the Goods of Omda Bibee* I. L. R., 26 Cal. 407.

**19I. (1)** No order entitling the petitioner to the grant of probate or letters of administration shall be made upon an application for such grant until the petitioner has filed in the Court a valuation of the property in the form set forth in the third Schedule, and the Court is satisfied that the fee mentioned in No. 11 of the first Schedule has been paid on such valuation.

(2) The grant of probate or letters of administration shall not be delayed by reason of any motion made by the Collector under section 19H, sub-section (4).

Section 19I (i) of the Court-Fees' Act, 1870, as amended by Act XI of 1899, merely embodies a rule of procedure and applies to an application for probate which was pending when that sub-section came into force. *In the Goods of E. T. Field*, P. R., 26 of 1900.

**19J. (1)** Any excess fee found to be payable on



Recovery of penalties, etc.

an inquiry held under section 19H, sub-section (6), and any penalty or forfeiture under section 19G may, on the certificate of the Chief Controlling Revenue Authority, be recovered from the executor or administrator as if it were an arrear of land revenue by any Collector in any part of British India.

(2) The Chief Controlling Revenue Authority may remit the whole or any part of any such penalty or forfeiture as aforesaid, or any part of any penalty under section 19E, or of any Court-fee under section 19E, in excess of the full Court-fee which ought to have been paid.

Sections 6 and 28 not to apply to probates or letters of administration.

19K. Nothing in section 6 or section 28 shall apply to probates or letters of administration.

#### CHAPTER IV.

##### PROCESS-FEES.

Rules as to costs of processes.

20. The High Court, shall as soon as may be, make rules as to the following matters :—

i. the fees chargeable for serving and executing processes issued by such Court in its appellate jurisdiction, and by the other Civil 'and Revenue\*' Courts established within the local limits of such jurisdiction :

ii. the fees chargeable for serving and executing processes issued by the Criminal Courts established within such limits in the case of offences other than offences for which police-officers may arrest without a warrant ; and

\* So far as the Punjab is concerned, the words 'or Revenue' have been repealed—See Act XVII of 1887, Punjab Land Revenue Act.



iii. the remuneration of the peons and all other persons employed by leave of a Court in the service or execution of processes.

The High Court may from time to time alter and add to the rules so made.

Confirmation and publication of rules. All such rules, alterations and additions shall, after being confirmed by the Local Government and sanctioned by the Governor-General of India in Council, be published in the local official Gazette, and shall thereupon have the force of law.

Until such rules shall be so made and published, the fee now leviable for serving and executing processes shall continue to be levied, and shall be deemed to be leviable under this Act.

For rules under this section made by the Chief Court of the Punjab, see Appendix A.

Process. A commission issued to an Ameen to hold local investigation for the purpose of ascertaining the amount of mesne profits is not a *process* within the meaning of section 20, of the Court-Fees' Act. *Jagat Kishore Acharja Chowdhry versus Dina Nath Chuckerbntty Chowdhry*, I. L. R., 17 Cal., 281.

Table of process-fees. 21. A table in the English and Vernacular languages, showing the fees chargeable for such service and execution, shall be exposed to view in a conspicuous part of each Court.

Number of peons in District and Subordinate Courts. 22. Subject to rules to be made by the High Court and approved by the Local Government and the Governor-General of India in Council,



every District Judge and every Magistrate of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court and each of the Courts subordinate thereto,

and for the purposes of this section, every Court of Small Causes established under the Provincial Small Cause Courts Act, IX of 1887, shall be deemed to be subordinate to the Court of the District Judge.

For rules made by the Chief Court under this section see Appendix B.

The Court-Fees' Act, distinctly contemplates that the peons are to be employed, not only for the service of summonses, but also for the execution of other process, such as warrants of arrest or attachment and distress. *Dharam Chand Lal versus Queen Empress*, I. L. R., 22 Cal., 596.

**23.\*** Subject to rules to be framed by the Chief Controlling Revenue Authority and approved by the Local Government and the Governor-General of India in Council, every officer performing the functions of a Collector of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court or the Courts subordinate to him.

**24.** Repealed by Act XII of 1891, Sch. I.

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\* This section has been repealed in the Punjab by the Punjab Land Revenue Act, XVII of 1887.



## CHAPTER V, OF THE MODE OF LEVYING FEES,

Collection of fees by  
stamps.

25. All fees referred to in section 3 or chargeable under this Act shall be collected by stamps.

Stamps to be impressed  
or adhesive.

26. The stamps used to denote any fees chargeable under this Act shall be impressed or adhesive, or partly impressed and partly adhesive, as the Governor-General of India in Council may, by notification in the Gazette of India, from time to time, direct.

For notifications under this section, see Appendix C.

This section provides that the stamp used to denote the fee chargeable under this Act shall be of such particular kind as the Governor-General of India in Council may by notification from time to time direct, and though the Governor-General has issued such notification still the direction in the notification, that the stamps should bear the word "Court-fee," is not a matter on which he has authority to give any direction under the terms of this section and therefore such a direction can only be regarded as a departmental order, the non-observance of which cannot invalidate the stamp for the purpose of the Act. *Annapersubai versus Lakshman Bhijean Valibakseji*, I. L. R., 19 Bom., 145.

Rules for supply, number, renewal and keeping  
accounts of stamps.

27. The Local Government may, from time to time, make rules for regulating—

(a) the supply of stamps to be used under this Act,

(b) the number of stamps to be used for denoting any fee chargeable under this Act,

(c) the renewal of damaged or spoiled stamps, and



(d) the keeping accounts of all stamps used under this Act :

Provided that, in the case of stamps used under section 3 in a High Court, such rules shall be made with the concurrence of the Chief Justice of such Court.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

For rules under this section made by the Local Government of the Punjab, see Appendix D.

There is no illegality in making up the stamp fee chargeable in a suit or appeal by means of any number of smaller values, if no rules on the subject have been published by the Local Government. *Mirza Daud Ali versus Syud Nadir Hussain*, 16 W. R., 153. *Huro Monee versus Kristo Indro Shaha*, 17 W. R., 220.

**28.** No document which ought to bear a stamp under this Act shall be of any validity, unless and until it is properly stamped.

Stamping documents inadvertently received.

But, if any such document is through mistake or inadvertance received, filed or used in any Court or office without being properly stamped, the presiding Judge or the head of the office, as the case may be, or, in the case of a High Court, any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct ; and, on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.



See notes under Ss. 6, 9, 10 and 11.

Section 28 of the Court-Fees' Act cannot be treated as superseding those provisions of the Code of Civil Procedure which direct the Court how to deal with special classes of documents, viz., complaints and memoranda of appeal, when presented to them, and therefore an improperly stamped complaint or memorandum of appeal can only be rejected on the ground of the insufficiency of the stamp (under section 54 or section  $\frac{54}{58\frac{1}{2}}$ , Civil Procedure Code) when the Court has required the plaintiff to file the extra stamp within a fixed time and he has failed to do so. *S. Khushal Singh versus Puran Singh*, P. R., 156 of 1888. In *Jhanda Khan versus Bahader Ali*, P. R., 3 of 1893, p. 37, it was ruled that section 28 of the Court-Fees' Act embodies a general provision which may be left to operate upon all documents for which special provision is not made elsewhere, and the proviso to that section probably only applies to general cases not within any special provisions, and at all events does not justify a Court in dismissing a suit without having recourse to the procedure laid down in Ss. 9 and 10 of the Court-Fees' Act, and s. 54 of the Civil Procedure Code, or after that procedure has been adopted and the Court's order complied with by the plaintiff. But see *Lakha versus Munhis Ram*, 1 P. L. R., 189, where it was held, that under s. 28, Court-Fees' Act, it is only where an insufficiently stamped complaint has been received through mistake or inadvertence that it can be regarded as valid. With reference to the scope of S. 54 of the Civil Procedure Code, Mr. Justice Shepherd in *Venkant Ramayya versus Krishnayya*, I. L. R., 20 Mad., p. 321, remarked, "seeing that the Legislature had before them the proviso to the 28th section of the Court-Fees' Act, which declares in favour of retrospective validity in the case therein provided for, it is not to be supposed that, in framing section 54 of the Code, they intended that principle to be extended to cases not within the section." By this, the learned Judge



meant that if any document insufficiently stamped has not been received or filed through mistake or inadvertance, the procedure provided for by section 54 Civil Procedure Code, cannot be resorted to for giving validity to such documents from the very beginning. This view was not approved of by Mr. Justice Subramania Ayyar in *Assan versus Pothumma*, I. L. R., 22 Mad., 494, while Mr. Justice Davies who took part in the last named case supported it by further reasons. It is pointed out by the Allahabad High Court that cases within s. 10 of the Court Fees' Act, would arise only when through mistake or inadvertance of the Court, the plaint which was subsequently discovered to be insufficiently stamped has been received, filed or used in the Court, and that therefore the said section 10 is not in conflict with section 28. *Balbaran Rai versus Gobind Nath Tewari*, I. L. R., 12 All., 129. This section contains a provision for stamping documents inadvertantly received, at the discretion of the Judge, the effect of which is to render the document valid *ab initio*. *Jhanda Khan versus Bahadur Ali*, P. R., 3 of 1893, p. 35.

“Mistake or inadvertance” means mistake or inadvertance on the part of the Court or its officers and not on the part of the applicant or his advisers, *Bullearan Rai versus Gobind Lal Tewari*, I. L. R., 12 All., 129 F. B.; *Munro versus The Cawnpore Municipality*, I. L. R., 12 All., 57. But see s. 582 A. Civil Procedure Code,—quoted under s. 6. If a Judge receives an insufficiently stamped plaint without recording any doubts as to its being properly stamped, it can be always said that he received it by mistake or inadvertance. *Partap Singh versus Kishen Dayal*, P. R., 130 of 1890. A memorandum of appeal, insufficiently stamped, was presented in the Court of the District Judge on the 24th May, the last day allowed for it by limitation, and was received and a memorandum endorsed on it, “Appeal within time; stamp duty insufficient Rs. 204 odd.” On the 27th May an order



was passed by the District Judge, and endorsed on the memorandum, allowing the appellant one week within which to supply the deficiency, and this period was on the 25th June further extended by another fortnight being allowed. On the 13th June full stamp duty was paid by the appellant. *Held*, that the facts of the case did not bring it within either the spirit or the letter of section 28 of the Court-Fees' Act, and that these proceedings were not such as were contemplated by that section, or to put the appeal in order when the stamp duty was received on the 13th June, and that the appeal had been properly dismissed as being out of time. *Yakut-un-nissa Bibee versus Keshore Mohun Roy*, I. L. R., 19 Cal., 747. See *Contra*, *Patcha Saheb versus Sub-Collector of North Arcot*, I. L. R., 13 Mad., 78.

If an insufficiently stamped document has been through inadvertance received by a Lower Court, any Judge of the High Court can direct that it should be properly stamped, provided it is used in the High Court. *Chedi Lal versus Kirath Chand*, I. L. R., 2 All., 682.

29. Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp.

The plaintiff sued in a Revenue Court for (1) value of produce, and (2) value of trees. The Revenue Court decided the suit as regards the produce, referring the plaintiff to the Civil Court as regards the value of the trees. The plaintiff sued in the Civil Courts accordingly, filing his plaint on unstamped paper. It was held by the Chief Court that this section did not apply to the plaint in the above mentioned suit, since there had been no amendment of a document at all. The plaint filed in the



Civil Court was entirely a fresh document and required the usual stamp. *Ganda Ram versus Sain*, P. R., 132 of 1892.

30. No document requiring a stamp under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled.

Cancellation of stamp.

Such officer as the Court or the head of the office may from time to time appoint shall, on receiving any such document, forthwith effect such cancellation by punching out the figure-head so as to leave the amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed.

For rules under this section, see Appendix E.

A memorandum of appeal is a document within the meaning of this section. *Balkaran Rai versus Gobind Nath Tewari*, I. L. R., 12 All., 129 F. B.

A plaint returned for presentation to proper Court cannot be so presented, if its Court-fee stamps have already been cancelled, without new stamps being affixed to it. *Jagjeewan Javehr Das Seth versus Magdum Ali*, I. L. R., 7 B. 487. This ruling was overruled by a subsequent ruling of the same Court, *Prabhabar Bhab versus Vishwambhehr Pandit*, I. L. R., 8 Bom., 313 F. B. which was followed in *Kanda versus Konda*, I. L. R., 8 Mad., 62; *Mussammat Aminjan versus Ibrahim*, P. R., 19 of 1884.

## CHAPTER VI.

### MISCELLANEOUS.

31. i. Whenever an application or petition containing a complaint or charge of an offence, other than an offence for

Repayment of fees paid on applications to Criminal Courts.



which police-officers may arrest without warrant, is presented to a Criminal Court, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee paid on such application or petition.

ii. In the case mentioned in section 18, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee, if any, paid by the latter for the examination.

iii. When the complainant has paid fees for serving processes in either of the cases mentioned in the first and second paragraphs of this section, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay such fees to the complainant.

iv. All fees ordered to be repaid under this section may be recovered as if they were fines imposed by the Court.

Complaints of illegal seizure under the Cattle Trespass Act do not require a stamp, and if they are stamped, it is not competent for the Court to direct that the accused shall repay the amount of such stamp to the complainant. *Reg. versus Aujibin Naru*, 8 Bom., H. C. Cr. Ca. 22.

No process fee is leviable on complaints made by Municipal Officers, and the accused are not liable to refund sums illegally levied from the complainants as process fee. *Queen Empress versus Khojaboy*, I. L. R., 16 Mad., 423 ; *Sheikh Hussain versus Sanjivi*, I. L. R., 7. M., 345.

An order passed by a Magistrate under s. 31 of the Court-Fees' Act, directing an accused person to pay to the complainant the Court-fee on the petition of complaint, is no part of



sentence, so as to make it a sentence of fine within the terms of section 413 of the Code of Criminal Procedure Code, and an order therefore, sentencing an accused person to 14 days rigorous imprisonment and to pay costs is not appealable.

*Madan Mundal versus Heran Ghose*, I. L. R., 20 Cal., 687.

32. Repealed by Act XII of 1891.

33. Whenever the filing or exhibition in a Criminal

Admission in criminal cases of documents for which proper fee has not been paid.

Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in section 4 or section 6 shall be deemed to prohibit such filing or exhibition.

34. (1) The Local Government may from time to

Sale of stamps.

time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons.

(2) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

(3) Any person appointed to sell stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

For rules made by the Local Government of the Punjab under this section, see Appendix F.



**35.** The Governor-General of India in Council may from time to time, by notification in the Gazette of India, reduce or remit, in the whole or in any part of British India, all or any of the fees mentioned in the first and second schedules to this Act annexed,

Power to reduce or remit fees.

and may in like manner cancel or vary such order.

For Notification under this section, see Appendix G.

**36.** Nothing in Chapters II and V of this Act applies to the commission payable to the Accountant-General of the High Court at Fort William or to the fees which any officer of a High Court is allowed to receive in addition to a fixed salary.

Saving of fees to certain officers of High Courts.

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## SCHEDULE I.

*Ad valorem fees.*

Number.		Proper Fee.
1. *Plaint or memorandum of appeal (not otherwise provided for in this Act), presented to any Civil or Revenue Court except those mentioned in section 3.	When the amount or value of the subject-matter in dispute does not exceed five rupees.	Six annas.
	When such amount or value exceeds five rupees. For every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees.	Six annas.
	When such amount or value exceeds one hundred rupees. For every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees.	Twelve annas.
	When such amount or value exceeds one thousand rupees. For every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees.	Five rupees.
	When such amount or value exceeds five thousand rupees. For every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees.	Ten rupees.

\* To ascertain the proper fee leviable on the institution of a suit, see the table annexed to this Schedule.



SCHEDULE I—*continued.**Ad valorem fees.*

Number.		Proper Fee.
1. * <i>Plaint, &amp;c.—(continued.)</i>	When such amount or value exceeds ten thousand rupees, For every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees.	Fifteen rupees.
	When such amount or value exceeds twenty thousand rupees, For every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to thirty thousand rupees.	Twenty rupees.
	When such amount or value exceeds thirty thousand rupees, For every two thousand rupees or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees.	Twenty rupees.
	When such amount or value exceeds fifty thousand rupees, For every five thousand rupees, or part thereof, in excess of fifty thousand rupees.	Twenty-five rupees.
	Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be three thousand rupees.	

\* To ascertain the proper fee leviable on the institution of a suit, see the table annexed to this schedule.



The Court-fee payable on a claim of set-off is the same as for a plaint of the like nature. *Amir Zama versus Nathu Mal*, I. L. R., 8 All. Set-off.

396. Followed in *Bai Shri Majerajhai versus Narotan Hargovan*, I. L. R., 13 Bom., 672.

The stamp for an appeal from a decision under section 230, Act VIII of 1859, (S. 332 Act XIV, Appeals from orders. of 1882), is an *ad valorem* stamp. *Mussammatt Subhar Bibi versus Rahim Bakhsh*, P. R., 18 of 1875. But under the new Code of Civil Procedure no appeal is allowed from such a decree. See s. 332, Act XII, 1882. A memorandum of appeal from an order under s. 331 of the Civil Procedure Code (1882) should be stamped with an *ad valorem* duty as provided by this article.—*Narayan Raghu Nath versus Bhagwant Anant*, I. L. R., 10 B., 238. Similarly an appeal from an order under S. 322 B Civil Procedure Code, or from an order under S. 214 of Act VI of 1882, or from an order under S. 265 Act IX of 1872, requires *ad valorem* stamp. But a memorandum of appeal from an order under S. 562 Civil Procedure Code, does not fall under Art. 1 of Sch. 1, or require an *ad valorem* fee. *Sadeij Muhammad versus Gur Sahai Ram*, P. R., 6 of 1880.

An appeal arising out of an application made to file an award under S. 526 of Act X of 1877 (s. Appeal arising out of applications to file award. 525 of Act XIV of 1882) requires an *ad valorem* stamp calculated on the amount or value of the subject matter in dispute under Art. 1 Sch. 1 of the Court-Fees' Act, but that an application of the above description to the first Court is only liable to a stamp of 8 annas as an application and not to an *ad valorem* stamp as a "plaint." *Dharam Das versus Ajudhia Pershad*, P. R., 70 of 1881. *Daya Nand versus Bakhtawar Singh*, I. L. R., 5 All., 533.

The Court-fee which an appellant has to pay on a memorandum of appeal from a decree, Appeals from decrees granting partial relief. which gives him only partial



relief, is to be calculated on the difference between the value of the relief which he claims and the relief granted by the decree. Where a decree was made payable by three instalments, and the plaintiff appealed on the ground that it should not have been made so payable, *held*, that the Court-fee should be calculated on the difference between the amount claimed in the Court below and the sum of the present values of the three instalments payable on the dates mentioned in the decree.—*Lakhun Chander Ash versus Khoda Bukhsh Mondol*, I. L. R., 17 Cal., 272. Plaintiff sued for a possession of a third share of a certain property valued at Rs. 5,000, and obtained a decree for possession of the whole property on payment of Rs. 15,000 within two months, it being provided that in default of such payment, the decree should become null and void. The plaintiff appealed, urging that the first Court was wrong in ordering that the decree for possession will be null and void in default of payment by him within the time fixed by the Court. *Held*, by the Full Bench, that the subject matter in dispute in such appeal was the validity or invalidity of a decree for possession of a property valued at Rs. 15,000 and the Court-fee was that leviable under Art. 1 Sch. 1 of the Court-Fees' Act for a memorandum of appeal not otherwise provided for in the Act calculated upon Rs. 15,000.—*Pirbhu versus Saudagor*, P. R., 33 of 1884. Where the plaintiff in a partition suit appealed against so much of the decree of the first appellate Court as rejected part of the claim and saddled him with liability to pay Rs. 3,200 due on a mortgage before getting his share of certain properties that were subject to that mortgage, and it was contended by the plaintiff that the portion of the appeal that objected to the payment of such sum was liable to no Court-fee on the ground that the award of his claim for the property subject to the mortgage right ought not to place him in a worse position than the rejection of his claim for that property

Suit for  
possession.

Partition  
suit.



Appeal  
against one  
of the defen-  
dants.

wholly, because in the latter case he would have to pay Court-fees, sufficient to cover the value of such property only. *Held*, that Court-fees should be paid on Rs. 3,200, the amount of liability, which according to the decree, rested upon the appellant, and which it was his object by appeal to get rid of *Rahim versus Salem*, P. J., 1887, p. 307. In a suit upon a hypothecation bond it was found by the Court of first instance that the bond and the debt secured thereby were binding on the first defendant, but not on the second defendant. The plaintiff preferred a second appeal against the second defendant as sole respondent. *Held*, that the Court-fee payable on the second appeal should be calculated upon the amount of the debt sought to be recovered. *Ramasami versus Subhisami*, I. L. R., 13 Mad., 508.

Where an appeal is preferred on the ground that the right to pre-empt has or has not been established as the case may be, no matter what other pleas may be taken, for the purpose of the Court-Fees' Act, the value of the subject matter in dispute must be determined as provided in s. 7. clause 6. But where the question in appeal relates solely to the amount paid by the pre-emptor, the fee should be calculated *ad valorem* on the difference between the amount alleged on the one side and the other. *Hafiz Ahmad versus Sobha Ram*, I. L. R., 6 All., 488.

The Bombay High Court held that in any appeal connected with redemption the stamp should be calculated as in the original suit on the principal amount secured by the mortgage deed. *Umar Khan versus Muhammad Khan*, I. L. R., 10 Bom., 41. Where a mortgagor sues for redemption on the allegation that the mortgage debt has been satisfied, and a decree for redemption is passed on payment of a certain amount, and the mortgagor appeals against the amount he is ordered to pay, the Court-fee payable on the memorandum of appeal must,



under s. 7 clause 9 of the Court-Fees' Act, be computed according to the principal money expressed to be secured by the instrument of mortgage, and not according to the balance which the mortgager alleges to be due. *Pirbhi Narayan Singh versus Sita Ram*, I. L. R., 13 All., 94. In this case Edge, C. J. remarked, "If on the other hand, the decree below had decreed redemptions on payment of, say, Rs. 500, and the defendants, mortgagees were appealing on the ground that the amount due was Rs. 2,00,000, I am of opinion that the amount of Court-fees should be calculated on the difference between Rs. 500 and Rs. 2,00,000." This ruling was followed in *Reference under Court-Fees' Act. s. 5.*, I. L. R., 13 Mad., 48.

Where by a decree the accounts are taken and the sum found due is awarded to the plaintiff, and the plaintiff appeals about specific sums not allowed by the decree the appeal should be valued at the aggregate of those sums. *Fatma Begum Mir Zulfikar Ali Khan*, P. J. 1887, p. 278.

An application under s. 525 Civil Procedure Code, is liable only to a stamp of annas 8.—*Dharam Das versus Ajudhia Pershad*, P. R., 70 of 1881. *Bejadhur versus Manohar Bhagut*, I. L. R., 10 C. 11. An application for the winding up, by the Court, of the business of a partnership firm under s. 265, Contract Act, is a plaint. The Court-fee is to be computed as in a suit for accounts.—*Erakshah Dhanjuseth Adarji Warakji*, I. L. R., 7 Bom., 735. In a suit to set aside an auction sale the fee payable is the same as that in a suit to recover the property. *Drapu Chowdry versus Ishan Chunder Das*, 9 C. L. R., 231.

2. Plaint in a suit for possession under the Specific Relief Act, 1877, section 9.	} ...	... {	A fee of one-half the amount prescribed in the foregoing scale.



### 3. Repealed by Act VIII of 1871.

4. Application for review of judgment, if presented on or after the ninetieth day from the date of the decree.	} ...	} ...	The fee leviable on the plaint or memorandum of appeal.
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5. Application for review of judgment, if presented before the ninetieth day from the date of the decree.	} ...	} ...	One-half of the fee leviable on the plaint or memorandum of appeal.
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The language of Art. 4 of Sch. 1 of the Court-Fees' Act, is quite plain and unambiguous, and the only question to be determined under it is, whether the particular application is or is not presented before the ninetieth day from the decree. The provisions of s. 5 of the Limitation Act cannot be applied to extend the period fixed in the Court-Fees' Act for the presentation of an application for review on payment of half fees. *Ruldu Mal versus Sobha*, P. R., 39 of 1879. In computing the period of limitation prescribed by this article the period during which the Court is closed must be included.—*In re Kota*, I.L. R., 9 Mad., 134.

A petitioner for review, who has not been declared a pauper in any of the earlier stages of the case, must file the usual stamp required by law on his application. *Baldeo Das versus Jewan Singh*, P. R., 24 of 1870. *Karam Khan versus Buta Khan*, P. R., 71 of 1895. An application for review in a suit *in forma pauperis*, like the plaint in the suit, is not liable to any Court-fee valuation.—*Umda Bibi versus Naima Bibi*, I. L. R., 20 All., 410.

The party seeking a review should be required to stamp his application with a fee sufficient to cover the amount of the claim in regard to which he wishes the Court to review its

Review of a portion of a decree in a suit.



judgment. *In re Manohar G. Tambekar*, I. L. R., 4 Bom., 26 ; 7 Mad. H. C., App. 1.—*Pro. Jan.* 16, 1872.

A suit being decided in favour of the plaintiff, one of the defendants made an application for review of the decision so far as it dealt with costs. The petitioner paid stamp-duty on the relief asked for, *i. e.*, for the entire amount of costs. The Lower Court ordered the petitioner to pay stamp-duty on the entire value of the suit, and the petitioner not complying with this order, his application was rejected. *Held*, that having regard to the language of Art. 5, Sch. I, of the Court-Fees' Act, the Munsiff did not come to an erroneous conclusion. *Nobin Chundra Chuckerbuty versus Muhammad Uzir Ali Sirkar*, 3 Cal., W. N. 292. I. L. R., 4 Bom., 26 was distinguished in this case.

The Court-fee for an application to review an appellate decree, the fee to be considered is the fee leviable on the memorandum of appeal, and not the fee which was leviable on the plaint. *Hussaini Begam versus The Collector of Muzaffarnagore*, I. L. R., 11 All., 176. F. B.

Number.		Proper Fee.
6. Copy or translation of a judgment or order not being, or having the force of, a decree.	<p>When such judgment or order is passed by any Civil Court other than a High Court, or by the presiding officer of any Revenue Court or Office, or by any other Judicial or Executive Authority—</p> <p>(a).—If the amount or value of the subject-matter is fifty or less than fifty rupees.</p>	Four annas.



Number.		Proper Fee.
6. Copy &c., <i>continued.</i>	(b).—If such amount or value exceeds fifty rupees.	Eight annas.
	When such judgment or order is passed by a High Court.	One rupee.
	When such decree or order is made by any Civil Court other than a High Court, or by any Revenue Court—	
7. Copy of a decree or order having the force of a decree.	(a)—If the amount or value of the subject-matter of the suit wherein such decree or order is made is fifty or less than fifty rupees.	Eight annas.
	(b)—If such amount or value exceeds fifty rupees.	One rupee.
	When such decree or order is made by a High Court.	Four rupees.
	(a)—When the stamp-duty chargeable on the original does not exceed eight annas.	The amount of the duty chargeable on the original.
8. Copy of any document liable to stamp-duty under the Indian Stamp Act 1899, when left by any party to a suit or proceeding in place of the original withdrawn.		Eight annas.



This article provides that copies of documents left by a party withdrawing the originals are chargeable with the Court-fees only if the originals withdrawn are themselves liable to stamp duty under the General Stamp Act. *Hari Chand versus Juma Subhane*, I. L. R., 11 Bom., 256.

<p>9. Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any account, statement, report or the like, taken out of any Civil or Criminal or Revenue Court or Office, or from the office of any chief officer charged with the executive administration of a Division.</p>	<p>For every three hundred and sixty words or fraction of three hundred and sixty words.</p>	<p>Eight annas.</p>
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This is not a copying fee, as has sometimes been supposed, but a Court-fee. Punjab Stamp Manual, 1888, p. 102.

Copies of orders in Lambardari, Zaildari and Patwari cases, and in executive proceedings of a similiar nature, granted for purposes of appeal, should be stamped in accordance with Art. 9. Punjab Financial Commissioner's Circular No. 61.

10. Repealed by Guardians and Wards Act.



Number.		Proper Fee.
<p>11. Probate of a will or letters or administration with or without will annexed.</p>	<p>If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees.</p>	<p>Two per centum on such amount or value : provided that when, after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code No. VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.</p>



See notes under s. 19.

Probate duty is payable only on assets which at the date of testator's death are in British India. *In re Ezekiel Joshua Abraham*, I. L. R., 21 Bom., 139.

No probate-duty is payable on the value of the property of a firm belonging to a deceased person, if the government of the firm is carried on in England, where the probate of the deceased person's will has been obtained. *In the goods of Sir Albert Sassoon*, I. L. R., 21 Bom., 673.

Number.		Proper Fee.
12. Certificate under the Succession Certificate Act, 1889.	In any case ...	<p>Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.</p> <p>NOTE.—(1) The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained.</p>



SCHEDULE I—*continued.*

Number.		Proper Fee.
12. Certificate &c. — <i>continued.</i>		Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and, where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of, the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.
12 A. Certificate under the Regulation of the Bombay Code No. VIII of 1827.	... ..	<p>(1) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and</p> <p>(2) as regards other property in respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees.</p>



Number.		Proper Fee.
13. Application to the Chief Court or the Court of the Financial Commissioner of the Punjab for the exercise of its revisional jurisdiction under section 70 of the Punjab Courts Act, 1884, as amended by the Punjab Courts Act, 1899.	When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees.	Two rupees.
	When such amount or value exceeds twenty-five rupees.	The fee leviable on a memorandum of appeal.
14. Application to the Court of the Recorder of Rangoon for exercise of the revisional jurisdiction of a High Court over the Court of Small Causes of Rangoon under section 622 of the Code of Civil Procedure, 1882 or section 25 of the Provincial Small Cause Courts Act IX of 1887	When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees.	Two rupees.
	When such amount or value exceeds twenty-five rupees.	The fee leviable on a memorandum of appeal.



## SCHEDULE I.—Continued.

*Table of rates of ad valorem fees leviable on the institution of suits.*

When the amount or value of the subject-matter exceeds.	But does not exceed	Proper Fee.	When the amount or value of the subject-matter exceeds.	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. As. P.	Rs.	Rs.	Rs. As. P.
	5	0 6 0	100	110	8 4 0
5	10	0 12 0	110	120	9 0 0
10	15	1 2 0	120	130	9 12 0
15	20	1 8 0	130	140	10 8 0
20	25	1 14 0	140	150	11 4 0
25	30	2 4 0	150	160	12 0 0
30	35	2 10 0	160	170	12 12 0
35	40	3 0 0	170	180	13 8 0
40	45	3 6 0	180	190	14 4 0
45	50	3 12 0	190	200	15 0 0
50	55	4 2 0	200	210	15 12 0
55	60	4 8 0	210	220	16 8 0
60	65	4 14 0	220	230	17 4 0
65	70	5 4 0	230	240	18 0 0
70	75	5 10 0	240	250	18 12 0
75	80	6 0 0	250	260	19 8 0
80	85	6 6 0	260	270	20 4 0
85	90	6 12 0	270	280	21 0 0
90	95	7 2 0	280	290	21 12 0
95	100	7 8 0	290	300	22 8 0



## SCHEDULE I—Continued.

*Table of rates of ad valorem fees, &c.—continued.*

When the amount or value of the subject-matter exceeds.	But does not exceed.	Proper Fee.	When the amount or value of the subject-matter exceeds.	But does not exceed.	Proper Fee.
Rs.	Rs.	Rs. As. P.	Rs.	Rs.	Rs. As. P.
300	310	23 4 0	500	510	38 4 0
310	320	24 0 0	510	520	39 0 0
320	330	24 12 0	520	530	39 12 0
330	340	25 8 0	530	540	40 8 0
340	350	26 4 0	540	550	41 4 0
350	360	27 0 0	550	560	42 0 0
360	370	27 12 0	560	570	42 12 0
370	380	28 8 0	570	580	43 8 0
380	390	29 4 0	580	590	44 4 0
390	400	30 0 0	590	600	45 0 0
400	410	30 12 0	600	610	45 12 0
410	420	31 8 0	610	620	46 8 0
420	430	32 4 0	620	630	47 4 0
430	440	33 0 0	630	640	48 0 0
440	450	33 12 0	640	650	48 12 0
450	460	34 8 0	650	660	49 8 0
460	470	35 4 0	660	670	50 4 0
470	480	36 0 0	670	680	51 0 0
480	490	36 12 0	680	690	51 12 0
490	500	37 8 0	690	700	52 8 0

Srinagar.



## SCHEDULE I—Continued.

*Table of rates of ad valorem fees, &c.—continued.*

When the amount or value of the subject-matter exceeds.	But does not exceed.	Proper Fee.	When the amount or value of the subject-matter exceeds.	But does not exceed.	Proper Fee.
Rs.	Rs.	Rs. As. P.	Rs.	Rs.	Rs. A. P.
700	710	53 4 0	900	910	68 4 0
710	720	54 0 0	910	920	69 0 0
720	730	54 12 0	920	930	69 12 0
730	740	55 8 0	930	940	70 8 0
740	750	56 4 0	940	950	71 4 0
750	760	57 0 0	950	960	72 0 0
760	770	57 12 0	960	970	72 12 0
770	780	58 8 0	970	980	73 8 0
780	790	59 4 0	980	990	74 4 0
790	800	60 0 0	990	1,000	75 0 0
800	810	60 12 0	1,000	1,100	80 0 0
810	820	61 8 0	1,100	1,200	85 0 0
820	830	62 4 0	1,200	1,300	90 0 0
830	840	63 0 0	1,300	1,400	95 0 0
840	850	63 12 0	1,400	1,500	100 0 0
850	860	64 8 0	1,500	1,600	105 0 0
860	870	65 4 0	1,600	1,700	110 0 0
870	880	66 0 0	1,700	1,800	115 0 0
880	890	66 12 0	1,800	1,900	120 0 0
890	900	67 8 0	1,900	2,000	125 0 0



## SCHEDULE I.—continued.

*Table of rates of ad valorem fees, &c.—continued,*

When the amount or value of the subject-matter exceeds.	But does not exceed	Proper Fee.	When the amount or value of the subject-matter exceeds.	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.	Rs.	Rs.	Rs. A. P.
2,000	2,100	130 0 0	4,000	4,100	230 0 0
2,100	2,200	135 0 0	4,100	4,200	235 0 0
2,200	2,300	140 0 0	4,200	4,300	240 0 0
2,300	2,400	145 0 0	4,300	4,400	245 0 0
2,400	2,500	150 0 0	4,400	4,500	250 0 0
2,500	2,600	155 0 0	4,500	4,600	255 0 0
2,600	2,700	160 0 0	4,600	4,700	260 0 0
2,700	2,800	165 0 0	4,700	4,800	265 0 0
2,800	2,900	170 0 0	4,800	4,900	270 0 0
2,900	3,000	175 0 0	4,900	5,000	275 0 0
3,000	3,100	180 0 0	5,000	5,250	285 0 0
3,100	3,200	185 0 0	5,250	5,500	295 0 0
3,200	3,300	190 0 0	5,500	5,750	305 0 0
3,300	3,400	195 0 0	5,750	6,000	315 0 0
3,400	3,500	200 0 0	6,000	6,250	325 0 0
3,500	3,600	205 0 0	6,250	6,500	335 0 0
3,600	3,700	210 0 0	6,500	6,750	345 0 0
3,700	3,800	215 0 0	6,750	7,000	355 0 0
3,800	3,900	220 0 0	7,000	7,250	365 0 0
3,900	4,000	225 0 0	7,250	7,500	375 0 0



## SCHEDULE I.—Continued.

*Table of rates of ad valorem fees, &c.—continued.*

When the amount or value of the subject-matter exceeds.	But does not exceed.	Proper Fee.	When the amount or value of the subject-matter exceeds.	But does not exceed.	Proper Fee.
Rs.	Rs.	Rs. A. P.	Rs.	Rs.	Rs. A. P.
7,500	7,750	385 0 0	15,000	15,500	640 0 0
7,750	8,000	395 0 0	15,500	16,000	655 0 0
8,000	8,250	405 0 0	16,000	16,500	670 0 0
8,250	8,500	415 0 0	16,500	17,000	685 0 0
8,500	8,750	425 0 0	17,000	17,500	700 0 0
8,750	9,000	435 0 0	17,500	18,000	715 0 0
9,000	9,250	445 0 0	18,000	18,500	730 0 0
9,250	9,500	455 0 0	18,500	19,000	745 0 0
9,500	9,750	465 0 0	19,000	19,500	760 0 0
9,750	10,000	475 0 0	19,500	20,000	775 0 0
10,000	10,500	490 0 0	20,000	21,000	795 0 0
10,500	11,000	505 0 0	21,000	22,000	815 0 0
11,000	11,500	520 0 0	22,000	23,000	835 0 0
11,500	12,000	535 0 0	23,000	24,000	855 0 0
12,000	12,500	550 0 0	24,000	25,000	875 0 0
12,500	13,000	565 0 0	25,000	26,000	895 0 0
13,000	13,500	580 0 0	26,000	27,000	915 0 0
13,500	14,000	595 0 0	27,000	28,000	935 0 0
14,000	14,500	610 0 0	28,000	29,000	955 0 0
14,500	15,000	625 0 0	29,000	30,000	975 0 0



## SCHEDULE I.—Continued.

*Table of rates of ad valorem fees, &c.—continued.*

When the amount or value of the subject-matter exceeds.	But does not exceed.	Proper Fee.	When the amount or value of the subject-matter exceeds.	But does not exceed.	Proper Fee.
Rs.	Rs.	Rs. A. P.	Rs.	Rs.	Rs. A. P.
30,000	32,000	995 0 0	1,00,000	1,05,000	1,450 0 0
32,000	34,000	1,015 0 0	1,05,000	1,10,000	1,475 0 0
34,000	36,000	1,035 0 0	1,10,000	1,15,000	1,500 0 0
36,000	38,000	1,055 0 0	1,15,000	1,20,000	1,525 0 0
38,000	40,000	1,075 0 0	1,20,000	1,25,000	1,550 0 0
40,000	42,000	1,095 0 0	1,25,000	1,30,000	1,575 0 0
42,000	44,000	1,115 0 0	1,30,000	1,35,000	1,600 0 0
44,000	46,000	1,135 0 0	1,35,000	1,40,000	1,625 0 0
46,000	48,000	1,155 0 0	1,40,000	1,45,000	1,650 0 0
48,000	50,000	1,175 0 0	1,45,000	1,50,000	1,675 0 0
50,000	55,000	1,200 0 0	1,50,000	1,55,000	1,700 0 0
55,000	60,000	1,225 0 0	1,55,000	1,60,000	1,725 0 0
60,000	65,000	1,250 0 0	1,60,000	1,65,000	1,750 0 0
65,000	70,000	1,275 0 0	1,65,000	1,70,000	1,775 0 0
70,000	75,000	1,300 0 0	1,70,000	1,75,000	1,800 0 0
75,000	80,000	1,325 0 0	1,75,000	1,80,000	1,825 0 0
80,000	85,000	1,350 0 0	1,80,000	1,85,000	1,850 0 0
85,000	90,000	1,375 0 0	1,85,000	1,90,000	1,875 0 0
90,000	95,000	1,400 0 0	1,90,000	1,95,000	1,900 0 0
95,000	1,00,000	1,425 0 0	1,95,000	2,00,000	1,925 0 0



## SCHEDULE I,—Continued.

*Table of rates of ad valorem fees, &c.—continued.*

When the amount or value of the subject-matter exceeds.	But does not exceed.	Proper Fee.	When the amount or value of the subject-matter exceeds.	But does not exceed.	Proper Fee.
Rs.	Rs.	Rs. A. P.	Rs.	Rs.	Rs. A. P.
2,00,000	2,05,000	1,950 0 0	3,00,000	3,05,000	2,450 0 0
2,05,000	2,10,000	1,975 0 0	3,05,000	3,10,000	2,475 0 0
2,10,000	2,15,000	2,000 0 0	3,10,000	3,15,000	2,500 0 0
2,15,000	2,20,000	2,025 0 0	3,15,000	3,20,000	2,525 0 0
2,20,000	2,25,000	2,050 0 0	3,20,000	3,25,000	2,550 0 0
2,25,000	2,30,000	2,075 0 0	3,25,000	3,30,000	2,575 0 0
2,30,000	2,35,000	2,100 0 0	3,30,000	3,35,000	2,600 0 0
2,35,000	2,40,000	2,125 0 0	3,35,000	3,40,000	2,625 0 0
2,40,000	2,45,000	2,150 0 0	3,40,000	3,45,000	2,650 0 0
2,45,000	2,50,000	2,175 0 0	3,45,000	3,50,000	2,675 0 0
2,50,000	2,55,000	2,200 0 0	3,50,000	3,55,000	2,700 0 0
2,55,000	2,60,000	2,225 0 0	3,55,000	3,60,000	2,725 0 0
2,60,000	2,65,000	2,250 0 0	3,60,000	3,65,000	2,750 0 0
2,65,000	2,70,000	2,275 0 0	3,65,000	3,70,000	2,775 0 0
2,70,000	2,75,000	2,300 0 0	3,70,000	3,75,000	2,800 0 0
2,75,000	2,80,000	2,325 0 0	3,75,000	3,80,000	2,825 0 0
2,80,000	2,85,000	2,350 0 0	3,80,000	3,85,000	2,850 0 0
2,85,000	2,90,000	2,375 0 0	3,85,000	3,90,000	2,875 0 0
2,90,000	2,95,000	2,400 0 0	3,90,000	3,95,000	2,900 0 0
2,95,000	3,00,000	2,425 0 0	3,95,000	4,00,000	2,925 0 0
			4,00,000	4,05,000	2,950 0 0
			4,05,000	4,10,000	2,975 0 0
			4,10,000	.....	3,000 0 0



## SCHEDULE II.

*Fixed Fees.*

Number.		Proper Fee.
1. Application or petition.	<p>(a).—When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings;</p> <p>or when presented to any officer of Land-revenue by any person holding temporarily-settled land under direct engagement with Government, and when the subject-matter of the application or petition relates exclusively to such engagement;</p> <p>or when presented to any Municipal Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement;</p>	One anna.



SCHELULE II.—*continued**Fixed Fees.*

Number.		Proper Fee.
1. Application or petition— <i>contd.</i>	<p>or when presented to any Civil Court other than a principal Civil Court of original jurisdiction, or to any Court of Small Causes constituted under the Provincial Small Cause Courts Act IX of 1887, or under the Bengal, North-Western Provinces and Assam Civil Courts Act XII of 1887, sec. 25, (3) or to a Collector or other officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than fifty rupees ;</p> <p>or when presented to any Civil, Criminal or Revenue Court, or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer, or of any other document on record in such Court or Office.</p>	<p>One anna.</p>



SCHEDULE II—*continued.**Fixed Fees.*

Number.		Proper Fee.
1. Application or petition— <i>contd.</i>	<p>(b) — When containing a complaint or charge of any offence other than an offence for which Police-officers may, under the Code of Criminal Procedure (Act V of 1898) arrest without warrant, and presented to any Criminal Court;</p> <p>or when presented to a Civil, Criminal or Revenue Court, or to a Collector, or any Revenue officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity, and not otherwise provided for by this Act;</p> <p>or to deposit in Court revenue or rent;</p> <p>or for determination by a Court of the amount of compensation to be paid by a landlord to his tenant.</p>	} Eight annas.



SCHEDULE II—*continued.**Fixed Fees.*

Number.		Proper Fee.
1. Application or petition— <i>contd.</i>	(c).—When presented to a Chief Commissioner or other Chief Controlling Revenue or Executive Authority, or to a Commissioner of Revenue or Circuit, or to any chief officer charged with the executive administration of a Division and not otherwise provided for by this Act.	One rupee.
	(d).—When presented to a High Court.	Two rupees.

The stamp requisite for an application for a probate of a will, or letters of administration, is not required to be proportionate to the value of the property involved, as such applications come under the provision made in article 1, sch. ii, Act VII of 1870 for common applications and petitions. *Judoomath Shadhookhan, In re*, 15 W. R., 40.



The word application in Schedule II, when read with section 6, must be construed to mean a documentary and not an oral application. *Tetley versus Administrator-General of Bengal*, 2 N. W. P. Rep., 418. The words 'Application or petition' do not include written statements filed in Civil suits. *In re Chegraj Ali*, 12 C. L. R., 370.

A petition under the Minors' Act, falls under this article and requires a stamp of one anna. *In re Anonymous*, P. R., 6 of 1873.

A petition for a new trial in a Small Cause Court is properly stamped with a one anna stamp under clause (a) of this article. *Chotalal Jamnadas versus Balkedar Jetha*. 7 Bom., H.C.A.C. 109,

An application for *winding up a partnership and for accounts* should bear an *ad valorem* fee under section 7, clause 4 (f) of the Court-Fees' Act. *Phogilal versus Popalbhai*, I. L. R., 7 Bom., 125.

The proper Court-fee upon an application to file an award under section 525 of the Civil Procedure Code, is the fee prescribed for applications and not the fee for a plaint. *Bijadhar versus Manohar*, I. L. R., 10 Cal., 11. An application to file an agreement to refer to arbitration, under section 523 of the same Code, however, requires a stamp of ten rupees under Article 18 of the Court-Fees' Act.

As a Cantonment Committee performs in Cantonments most of the functions that a Municipal Committee performs in a Municipality, in the absence of any express provision to the contrary, in the Court-Fees' Act, a petition to a Cantonment Committee or its Secretary, is chargeable with a fee of one anna under this clause. Financial Commissioner's letter No. 2262, dated 30th March 1880.

The illegal seizure and detention of cattle, to which section 14 of Act III of 1857 refers, is not an 'offence' within the meaning of this article. Complaints of such illegal seizure



and detention do not require a stamp. *Rey versus Najyi*, VIII Bom., H. C. R. C. C. 22.

This article prescribes a fee of one anna on applications for copies of orders but this does not include application for inspection of records, which may be on plain paper. Punjab Financial Commissioner's letter, No. 2681, dated 14th April 1882.

Stamp duty is not chargeable on an application by a witness for the return of a document filed by him in obedience to summons. Anonymous case, 15 W. R. 237.

An application by a Lambardar for a warrant against a revenue defaulter falls under clause (b) of this article. Punjab Financial Commissioner's Circular No. 46, dated 1st December 1884.

Number.		Proper Fee.
2. Application for leave to sue as a pauper.	.....	Eight annas.
3 Application for leave to appeal as a pauper.	(a).—When presented to a District Court.	One rupee.
	(b).—When presented to a Commissioner or a High Court.	Two rupees.
4. Plaint or memorandum of appeal in a suit to obtain possession under Act No. XVI of 1838, the Mamlatdars' Courts Act, 1876.	.....	Eight annas.



Number.		Proper Fee.
5. Complaint or memorandum of appeal in a suit to establish or disprove a right of occupancy.	.....	Eight annas.

Suits to establish or disprove a right of occupancy, falling under this article should be distinguished from suit to contest a notice of ejectment, which are chargeable with an *ad valorem* fee under clause XI (d) of section 7. Punjab Stamp Manual 1888, para. 114.

In a suit to eject a defendant as being a tenant at-will, the Court fee upon the complaint or memorandum of appeal is annas 8 under this article. *Nurjahan versus Marfan Mandal*, 11 C. L. R., 9.

6. Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, (Act V of 1898) or the Code of Civil Procedure (Act XIV of 1882).	.....	Eight annas.
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Where a bond is given under the orders of a Court as security by one party for the costs of another, it is subject to two duties (a) a Court-fee of eight annas under Art. 6 and an *ad valorem* stamp under the Stamp Act (1 of 1879) sch. 1



Art. 13 (b) *Kulwanta versus Mahabir Pershad*, I. L. R., 11 All., 16, F. B. But see Art. 15, Sch. I, of the New Stamp Act, Act II of 1899, by which such bonds are not now liable to any stamp duty under the Stamp Act.

7. Undertaking  
under section 49  
of the Indian  
Divorce Act.

.....

Eight annas.

8. Repealed by Act XII of 1891, First Schedule.

9. Repealed by Act XII of 1891, First Schedule.



Number.		Proper Fee.
10. Mukhtarna- ma or Wakalat- nama.	When presented for the conduct of any one case—	
	(a)—to any Civil or Cri- minal Court other than a High Court, or to any Revenue Court, or to any Collector or Magistrate, or other executive officer, except such as are mentioned in clauses (b) and (c) of this Number.	Eight annas.
	(b)—to a Commissioner of Revenue, Circuit or Customs or to any officer charged with the executive admi- nistration of a Divi- sion, not being the Chief Revenue or Executive Authority.	One rupee.
	(c)—to a High Court, Chief Commissioner, Board of Revenue, or other Chief Con- trolling Revenue or Executive Authori- ty.	Two rupees.



A vakalatnama authorizing a pleader to receive during the course of a suit which he has been empowered to conduct, money or documents receivable by his client in the ordinary course of such suit, or in consequence of the order or decree of the Court in such suit, does not require a stamp under Act XVIII of 1869. *Anonymous*, I. L. R., 3 Cal., 767.

A case need not necessarily mean a suit or judicial proceedings, but would include any petition or application to a Court or officer. A power to a vakil authorizing him to present an application for copies, falls under Art. 10 Sch. II of the Court-Fees' Act and does not require to be stamped under Art. 50 of Sch. 1 of the Indian Stamp Act. I. L. R., 9 Mad. 146, F. B. *Reference under Stamp Act section 46.*

11. Memorandum of appeal when the appeal is not from an order rejecting a plaint or from a decree or an order having the force of a decree, and is presented—	(a)—to any Civil Court other than a High Court, or to any Revenue Court or Executive Officer other than the High Court or Chief Controlling Revenue or Executive Authority.	Eight annas.
	(b)—to a High Court or Chief Commissioner, or other Chief Controlling Executive or Revenue Authority.	
		Two rupees.

An order remanding a case under section 562 of the Civil

Orders not having the force of decree. Procedure is not a "decree" nor "an order having the force of a decree" within the meaning of this article, and that therefore a memorandum of appeal from such an order falls under the article and does not require an *ad valorem* fee.



*Mahomed versus Gur Sahai Ram*, P. R., 6 of 1880. In an appeal under section 10 of the Letters Patent, from an order of a single Judge of the Court remanding a case under section 562 of the Code of Civil Procedure the proper Court-fee is Rs. 2. *Balli Rai versus Mahabir Rai*, I. L. R., 21 All., 178. An order under section 214 of the Indian Companies Act is not a decree or order having the force of a decree. *Reference under section 28*, I. L. R., 17 All., 238. Similarly an order under s. 58 of the same Act. P. J. 1885, p. 214. An application to the High Court to set aside an order of the District Court, reversing an order of the Court of first instance, and directing an award made without the intervention of a Court to be filed, should be treated as an application for a miscellaneous special appeal under this article, *Lakhshman Swaji versus Rama Esu*, 8 Bom., H. C. A. C. 17. An order refusing to admit an appeal dismissed for default is not a decree but an order, and an appeal from such an order falls under this article. *Mussammat Kahno versus Serhed Singh*, P. R., 100 of 1883.

See definition of 'decree' given in the Civil Procedure Code, Act. XIV of 1882.

An order under section 331 of the Civil Procedure Code

Orders having the force of a decree. *Narayan Raghunath versus Bhagvant Anant*, I. L. R., 10 Bom., 238, *Shayama Sundri Dasi versus Robert Watson*, I. L. R., 8 Cal., 720, and an order under s. 322 B. C. P. C. *Ahmed Khan versus Madho Dass*, I. L. R., 7 All., 565, have not the force of a decree.



Number.		Proper Fee.
<p>12. Caveat.</p> <p>13. Application under Act X of 1859, section 26, or Bengal Act No. VI of 1862, section 9, or Bengal Act No. VIII of 1869, section 37.</p> <p>14. Petition in a suit under the Native Converts' Marriage Dissolution Act, 1866.</p> <p>15. Plaint or memorandum of appeal in a suit to obtain possession of a wife. This article does not apply to a suit for custody of children, which would have to be stamped ten rupees under Art. 17 (vi) as not being otherwise provided for. Punjab Stamp Manual 1886, para. 156.</p>	<p>.....</p>	<p>Five rupees.</p>
<p>16. <i>Administration-bond.</i></p>	<p>Repealed by Act VI of 1889, S. 18 (1).</p>	



Number.	Proper Fee.
<p>17. Plaint or memorandum of appeal in each of the following suits :—</p>	<p>Ten rupees.</p>
<p>i. to alter or set aside a summary decision or order of any of the Civil Courts not established by Letters Patent or of any Revenue Court :</p>	
<p>ii. to alter or cancel any entry in a register of the names of proprietors of revenue-paying estates :</p>	
<p>iii. to obtain a declaratory decree where no consequential relief is prayed :</p>	
<p>iv. to set aside an award :</p>	
<p>v. to set aside an adoption :</p>	
<p>vi. every other suit where it is not possible to estimate at a money-value the subject-matter in dispute, and which is not otherwise provided for by this Act.</p>	



## Clause (i).

The order of an execution Court allowing or disallowing the objection of a third party to an attachment is a summary order within the meaning of this clause. *Daya Chand versus Hem Chand Dharam Chand*, I. L. R., 11 Bom., 515, followed in *Dyal Singh versus Beli Ram*, P. R., 51 of 1897. Therefore a suit under section 283 of the Code of Civil Procedure falls under this clause. *Dya Chand Hem Chand versus Hem Chand Dharam Chand*, I. L. R., 11 Bom., 515 F. B., *Sada Shio Yeshwant versus Atma Ram Sukha Ram*, Ibid 535. *Dhondo Sakha Ram versus Gobind Babaji*, I. L. R., 9 Bom., 20, *Fatima Begam versus Sukh Ram*, I. L. R., 6 All., 341, *Mauraj Kuari versus Mahraja Radha Pershad Singh*, Ibid 466.

Such a suit either falls under clause (i) or clause (iii) of this article. *Dyal Singh versus Beli Ram*, P. R., 51 of 1897. Contra *Ahmed Mirza versus A. Thomas*, I. L. R., 13 Cal., 162. *Jalalud Din Mohammed versus Shoharullah*, 15 B. L. R., App. 1.

## Clause (iii).

*The following suits have been held to fall under this clause.*

A suit by person entitled as a reversioner after a Hindu widow for a decree declaring that an alienation by the widow is void in respect of anything beyond her life estate. *Bakhshirh Singh versus Narain Singh*, P. R., 70 of 1877. *Dwachalaya Pillai versus Ponathal*, I. L. R., 18 Mad., 459. A suit by a son against his father and others who are in possession, for a declaration that the alienation made by his father do not affect his rights. *Saullara Narayan versus Muttayan*, I. L. R., 7 Mad., 134. A suit for a declaration that a will will not affect the reversionary rights of the plaintiff. *Hakim versus Mussammat Mahtab*, P. R., 109 of 1893. A suit praying merely for a declaration that the plaintiff is entitled to require the defendant to account to him and to permit him to inspect their books.



*Manohar Gunesh versus Ram Charn Das*, I. L. R., 2 Bom., 219. A suit to have one's title to a land, of which he professes to be in possession, affirmed, is a suit Confirmation of possession. to obtain declaratory decree when no consequential relief is prayed. *Shah Alum versus Mahmud P. R.*, 2 of 1889. *Denabanda Chowdry versus Raj. Mahani Chowdrani*, 8 B. L. R., App. 32.

A suit in which the only prayer is to have a decree set aside as null and void, *Srimant Sagayrao versus S. Smith*, I. L. R., 20 Bom., 736. Suits to set aside deeds or decrees.

A suit by the purchaser of a property to have the mortgage deed executed by his vendor of the same property, cancelled. *Karam Khan versus Darya Singh*, I. L. R., 5 All., 531 F. B. and a suit for the cancellation of a mukhtarnama, *Hira Lal versus Wali Bhagat*, W. N., 1899, p. 124.

Suits under s. 283 of the Civil Procedure Code. *Moti Singh versus Kaunsilla*, I. L. R., 16 All., 308. Suits under S. 283 C.P.C. *Vithal Krishna versus Balkrishna Janardeen*, I. L. R., 10 B., 610. *Dyal Singh versus Beli Ram*, P. R., 51 of 1897. Contra *Ahmed Mirza Sahib versus A. Thomas*, I. L. R., 13 Cal., 162, and P. R., 80 of 1886.

The following suits have been held not to fall under this clause.

1. A suit to set aside an auction sale, *Drapu Chowdry versus Ishanchanda Das*, 9 C. L. R., 231. A suit for removal of a Mahant, for declaration of right to appoint a successor and to enforce the provisions of a will. *Bawa Mungal Das versus Mahant Nirayan Das*, P. R., 56 of 1895. See also *Omrao Mirza versus Jones*, I. L. R., 10 Cal., 577. A suit for the removal of a person from the management of a temple and for damages *Sirinaurser versus Venkata*, I. L. R., 11 Mad., 148. A suit for a declaration that a certain document is inoperative against the plaintiff and for setting aside the



document, or a suit for such declaration and consequential relief. *Hakim versus Mussammatt Marteh Kour*, P. R., 109 of 1893. See *Thakar Din Tewari versus Nawab Syed Ali Hussain Khan*, 21 W. R., 340.

When a suit embraces two or more distinct reliefs and an appeal is preferred against the declaratory relief only ; such an appeal falls under this clause. *Girjanand versus Sailajanund*, I. L. R. 23 Cal., 645.

### Clause (vi).

*The following suits have been held to fall under this clause.*

A suit for the removal of a Karnavan of a Malabar tarvad, on the ground of misfeasance, *Goverdan Nambiar versus Krishnan Nambiar*, I. L. R., 4 Mad., 146. A suit under Act 20 of 1868 s. 14 to remove the managers of an endowment from office on the ground that they had been guilty of misfeasance. *Veerasami Pillay versus Chokappa Muarhar*, I. L. R., 11 Mad., 149, a suit under s. 539 of the Civil Procedure Code for the appointment of plaintiffs themselves as trustees *Thakuri versus Brahma Narayan*, I. L. R., 19 All., 60, and a suit under s. 77 of the Registration Act. *Jantoo versus Rudha Kantoo*, I. L. R., 8 Cal., 515. *Muhammad Zakaria versus Mahammad Fatima*, P. R., 21 of 1895.

The mere fact that the plaintiffs in a suit under s. 539 of the Code of Civil Procedure may ask for an account to be taken from the trustees and the trustees may be compelled to refund moneys alleged to have been misappropriated by them does not take the case out of the purview of art. 17, clause (vi) of the second schedule to the Court-Fees' Act, 1870, and render the plaintiffs liable to pay an *ad valorem* Court-fee on that part of their plaint. *Girdhari Lal versus Ram Lal*, I. L. R., 21 All., 200.



Number.		Proper Fee.
18. Application under section 523 of the Code of Civil Procedure (XIV of 1882).		Ten rupees.
<p>Per Oldfield J. An order refusing to file an agreement to refer to arbitration is appealable, and the memorandum of appeal should bear an <i>ad valorem</i> fee computed on the subject-matter in dispute. I. L. R., 5 All., 333 F. B.</p>		
19. Agreement under section 527 of the same Code (1882).		Ten rupees.
20. Every petition under the Indian Divorce Act except petitions under section 44 of the same Act, and every memorandum of appeal under section 55 of the same Act.		Twenty rupees.
21. Plaint or memorandum of appeal under the Parsi Marriage and Divorce Act, 1865.		Twenty rupees.



## SCHEDULE III.

(See section 19 I.)

FROM OF VALUATION (TO BE USED WITH SUCH MODIFICATIONS,  
IF ANY, AS MAY BE NECESSARY).

IN THE COURT OF

*Re probate of the Will of*  
*Administration of the property and credits of*  
*,) deceased,*

, (or

I

{ solemnly affirm }  
{ make oath }

and say that I am the executor (or one of the executors or  
one of the next of kin of , deceased, and that  
I have truly set forth in Annexure A to this affidavit all the  
property and credits of which the abovenamed deceased died  
possessed or was entitled to at the time of his death, and which  
have come, or are likely to come, to my hands.

2. I further say that I have also truly set forth in  
Annexure B all the items I am by law allowed to deduct.

3. I further say that the said assets, exclusive only of  
such last-mentioned items, but inclusive of all rents, interest,  
dividends and increased values since the date of the death of  
the said deceased, or under the value of .

## ANNEXURE A.

Rs. A. P.

VALUATION OF THE MOVABLE AND IMMOVABLE PRO-  
PERTY OF , DECEASED.

Cash in the house and at the banks, household  
goods, wearing-apparel, books, plate, jewels,  
&c.

(State estimated value according to best of Executor's  
or Administrator's belief.)

Property in Government securities transferable  
at the Public Debt Office.

(State description and value at the price of the day;  
also the interest separately, calculating it to the  
time of making the application).



## ANNEXURE A.—concluded.

Rs. A. P.

Immovable property consisting of

(State description, giving, in the case of houses, the assessed value, if any, and the number of years' assessment the market-value is estimated at, and, in the case of land, the area, the market-value and all rents that have accrued.

Lease-hold property ... ..

(If the deceased held any leases for years determinable, state the number of years' purchase, the profit rents are estimated to be worth and the value of such, inserting separately arrears due at the date of death and all rents received or due since that date to the time of making the application).

Property in public companies ... ..

(State the particulars and the value calculated at the price of the day; also the interest separately, calculating it to the time of making the application).

Policy of insurance upon life, money out on mortgage and other securities, such as bonds, mortgages, bills, notes and other securities for money.

(State the amount of the whole; also the interest separately, calculating it to the time of making the application).

Book debts ... ..

(Other than bad).

Stock in trade.

(State the estimated value, if any).

Other property not comprised under the foregoing heads.

(State the estimated value, if any).

TOTAL ...

Deduct amount shewn in Annexure B not subject to duty.

NET TOTAL ...



## ANNEXURE B.

## SCHEDULE OF DEBTS, &amp;c.

	Rs.	A.	P.
Amount of debts due and owing from the deceased, payable by law out of the estate.			
Amount of funeral expenses ... ..			
Amount of mortgage incumbrance ... ..			
Property held in trust not beneficially or with general power to confer a beneficial interest.			
Other property not subject to duty ... ..			
TOTAL ...			

*Note.*—This Schedule and its Annexures were added by Act XI of 1899, section 3.



APPENDIX A.  
PROCESS FEES AND PROCESS-SERVING  
ESTABLISHMENTS.

REMARKS AND DIRECTIONS.

The annexed rules regarding process fees and process-serving establishments have been published, with the sanction of Government, for the guidance of the Courts of the Punjab, in supersession of all previous rules on the subject.

The rules in Parts I, II and III are framed under sections 20 and 32 of the Court Fees Act; and those in Part III have been made with the concurrence of the Financial Commissioners.

2. The rules in Parts I, II and III, regarding fees in civil processes and the number of peons to be entertained, call for no explanation. Attention is invited to section 21 of the Act, which requires that a table of the fees chargeable on processes in each Court should be hung up in some conspicuous place, and to the fact that under rule IV an additional fee is now leviable on multiple processes.

3. The Court-Fees Act, section 20, clause ii, restricts the levy of a fee on criminal processes to non-cognizable cases. The levy of a fee in such cases is now authorised by rule V, whether the process is served through the Police or the process-serving establishment, and the fee for such processes has been fixed at a uniform rate of four annas.

4. Courts are reminded that, under section 31 of the Court-Fees Act, in cases of conviction of an accused of the offence of wrongful confinement, wrongful restraint, or of any non-cognizable offence, the Court must by its order direct that the accused pay to the complainant any



sum that he may have expended in issue of processes ; and such sum may be recovered in the manner provided for recovery of fines.

5. Notwithstanding the separation of the Revenue from the Civil Courts, the control over income derived from process fees in all Courts and Revenue offices, and the expenditure on establishments, &c., from this source, is still, at the desire of the Financial Commissioners, retained by the Chief Court, to which all references on the subject should be made as heretofore. It will be necessary for Commissioners and Divisional Courts to maintain the registers and accounts prescribed by these Rules and Orders, and to submit the annual returns, in the prescribed form, referred to in paragraph 12 of Part IV of the rules.

6. In districts where the appointment of District Judge is held by a separate officer, the District Nazir at headquarters will be under the orders of the Deputy Commissioner alone, and will be appointed and dismissed by him. The duties of the Nazir are such that it would be in many ways inconvenient to place him under the control of the District Judge and to deprive the Deputy Commissioner of any voice in his appointment. This is not intended to prevent the District Judge from addressing orders to the Nazir direct as a matter of convenience ; but when fault has to be found with the Nazir in respect of the discharge of his duties as a ministerial officer of the Civil Courts, the District Judge should communicate with the Deputy Commissioner on the subject, with a view to the latter taking suitable notice of the matter. But with the rest of the process-serving establishment the case stands on a different footing ; their work is mainly connected with the issue and service of civil processes, and they will act under the orders of the District Judge, but will still continue to be



available for the service of revenue and criminal processes, where these are not served through the Police.

7. The civil work has now been entirely transferred to the District Judge, and he alone has powers, under the Punjab Courts Act, with regard to ministerial officers of the Civil Courts, the Deputy Commissioner as such having no such powers. The District Nazir is retained under the control of the Deputy Commissioner because he has many important duties to perform unconnected with the Civil Courts. The District Judge is responsible that proper attention is paid by the process service establishment serving under his orders to the service of processes issued by Revenue and Criminal Courts.

8. The District Nazir must still be regarded as the head of the process-serving establishment; but he will submit any reports relating to the members or the duties of the establishment to the District Judge instead of to the Deputy Commissioner. His position as head of the process-serving establishment is not affected by the appointment of a Civil Nazir.

9. In making appointments to the post of Civil Nazir care should be taken to appoint thoroughly efficient men only. A person who is not competent to examine and keep accounts in both English and Urdu should not usually be entertained. The Civil Nazir is not to be ordinarily employed on duties connected with the Criminal and Revenue Courts for which the District Nazir must be held solely responsible.

10. The Civil Nazir, Naib-Nazirs, Madad Muharrirs, Madad Naib-Nazirs, Execution Bailiffs and process-servers will all be appointed by the District Judge, and will be dealt with under the powers conferred upon him by the Punjab Courts Act in regard to the ministerial establishment of his own and subordinate Courts.



11. No one who is sickly, old, or incapable of a good deal of physical exertion, should be appointed an Execution Bailiff or process-server. A knowledge of Urdu should be regarded as an indispensable qualification for appointment to the post of Execution Bailiff, and no one should, in future, be appointed a process-server unless he can read and write some language current in the province.

12. The forty Madad Muharrirs on Rs. 10 *per mensem* are allowed in order to strengthen the establishments of Munsifs' Courts located at head-quarters of districts, and in two instances, namely, in the case of Batala in the Gurdaspur District, and Kasur in the Lahore District, for the Courts of the Munsifs stationed at those places. The Madad Naib-Nazirs are allowed in order to facilitate the working of the system of serving processes locally through agencies attached to Courts sitting at outlying tahsils.

13. The employment of process-servers upon duties unconnected with the serving of processes is absolutely forbidden.

14. The Civil Nazir will be expected to relieve the District Nazirs of most of the detailed duties connected with the Civil Courts; and more particularly in regard to the keeping of the Civil Deposit and Repayment Accounts and the management of execution of decree business. It is left to District Judges to issue detailed instructions as to the duties connected with the Civil Courts which are to be performed by the District Nazir and Civil Nazir respectively. The relief thus given to the District Nazir should enable him to devote more time to the distribution of business amongst process-servers, the transmission of processes to agencies located at tahsils for service, the management of the accounts and correspondence regarding the payment of diet money to witnesses, and other similar matters connected with the



carrying out of the system of serving processes through agencies located at outlying tahsils.

15. The amount of security to be given by the various grades of officers employed in the process-serving establishment is as follows :—

	Rs.
European Bailiff ... ..	500
District Nazir ... ..	500
Civil Nazir (or Departmental Clerk of a Small Cause Court).	500
Naib-Nazir ... ..	200
Judicial Muharrir employed as Naib Nazirs	200
Madad Naib-Nazir. ... ..	100
Execution Bailiff ... ..	50

16. The maximum scale of process-serving establishment allowed to each district will be found detailed in Appendix II of this volume. The District Judge has power to distribute the process-servers sanctioned for the District Courts in such manner as he thinks fit, with reference to the amount of business coming before the different Courts, and the distances to be traversed in serving processes; but it must be understood that the full number of process-servers should not be entertained unless they are actually required. Civil Register No. XXV is intended to show how the work is distributed amongst the different process-servers and the Chief Court requests that controlling authorities will frequently inspect this register for the purpose of satisfying themselves that no unnecessary process-servers are entertained. Every marked diminution in work or income should be followed by a reduction of establishment.

17. No process-server should be retained in the service who is not capable of fully and intelligently carrying out the rules relating to the proper service of processes.



PART I.—RULES UNDER SECTION 20, CLAUSES (i) AND (ii.)

Rules made by the Chief Court under the power conferred by section 20, clauses (i) and (ii), of the Court-Fees Act, VII of 1870, confirmed by the Local Government and sanctioned by the Governor-General of India in Council, regarding the fees chargeable for serving and executing processes issued by the Chief Court in its appellate jurisdiction, and by the Civil, Revenue, and Criminal Courts established within the local limits of such jurisdiction.

RULES.

I. The Civil and Revenue Courts of the Punjab shall, for the purpose of levying process fees, be divided into four grades, as shown in the annexed table,—

<i>Grade.</i>	<i>Civil Courts.</i>	<i>Revenue Courts.</i>
First.	The Chief Court ... ..	The Court of the Financial Commissioners.
Second	Divisional Courts ... ..	The Court of Commissioners.
Third	Courts of District and Subordinate Judges and of special Judges invested with the powers of a Subordinate Judge, or of a first class Munsif.	The Courts of Collectors and Assistant Collectors of the first grade.
Fourth	Courts of Small Causes and Munsifs' Courts, Courts of special Judges invested with the powers of a Munsif of the second or third class.	The Courts of Assistant Collectors of the second grade.

NOTE.—All Munsifs' Courts, irrespectively of the class to which they belong for the purpose of exercising jurisdiction, fall under the fourth grade of Courts mentioned in rules I and II. It is only special Judges, such as Assistant or Extra Assistant Commissioners, or Honorary Judges, who come within the third grade of Courts when invested with the powers of a Munsif of the first class or any higher powers.



II. Fees shall be levied in each grade of Court according to the scale hereto annexed,—  
 Scale of fees in such Courts.

<i>Nature of process.</i>	<i>Courts of first grade.</i>	<i>Courts of second grade.</i>	<i>Courts of third grade.</i>	<i>Courts of fourth grade.</i>
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
Summons, notice or other process, not being a warrant of arrest or of attachment ...	2 0 0	1 0 0	0 8 0	0 4 0
Warrant of attachment	4 0 0	2 0 0	1 0 0	0 8 0
Warrant of arrest ...	4 0 0	2 0 0	2 0 0	2 0 0

NOTE.—The classification of Revenue Courts in rule I, and the scale of fees to be levied in them under rule II, have been sanctioned by the Financial Commissioners.

III. A separate process shall be issued for each person summoned or arrested, or upon whom a notice is served; and, subject to the rule next following, a separate fee shall be charged for each process.

IV. When any process, other than a warrant of arrest or of attachment, is to be served upon four or more persons being parties, one fee only shall be charged in respect of the first four processes according to the scale in rule II, and an additional fee shall be charged for each process to be served in excess of four according to the subjoined scale: provided that the aggregate amount of the fee leviable under this rule shall not exceed



the maximum prescribed in such scale for each grade of Court,—

	<i>Courts of first grade.</i>			<i>Courts of second grade.</i>			<i>Courts of third grade.</i>			<i>Courts of fourth grade</i>		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
Rate of additional fee..	0	8	0	0	4	0	0	2	0	0	2	0
Maximum           ...           ...	15	0	0	10	0	0	5	0	0	2	8	0

NOTE.—This rule is not applicable to processes issued for service on witnesses.

V. No fee shall be chargeable for any process of a Criminal Court issued through the police in cognizable cases. In non-cognizable cases a uniform fee of four annas shall be levied for every such process, *whether it be issued through the process-serving establishment or the Police.*

VI. A process issued by any Court in British territory, whether of Civil, Revenue or Criminal jurisdiction, shall be served free of charge by any Court in the Punjab, if it be certified on the process that the proper fee has been levied under the rules in force in the territory in which the Court issuing the process is situated. When any Court in the Punjab, whether of Civil, Revenue or Criminal jurisdiction, sends a process for service or execution to any Court beyond its jurisdiction, it shall endorse on the process a certificate that the fee chargeable under rule II, or rule IV, as the case may be, has been levied.



VII. Process-servers shall ordinarily travel on foot when proceeding to serve or execute processes; but in special cases, under the permission in writing of the Judge of the Court issuing the process, the journey may be made by railway. In such cases the railway fare shall be paid from judicial contingencies, and shall not be charged to the person at whose instance the process is issued.

When process-server may travel by railway.

PART 11.—RULES UNDER SECTION 20, CLAUSE (iii).

Rules made by the Chief Court under the power conferred by section 20, clause (iii) of the Court-Fees Act, VII of 1870, confirmed by the Local Government and sanctioned by the Governor-General of India in Council, regarding the remuneration of the process-servers and all other persons employed by leave of a Court in the service or execution of processes.

RULES.

I. The salaries of the process-serving establishment, as such, shall not, except with special sanction of the Chief Court, exceed the amount shown below against each officer,—

Salaries of process-serving establishment.

			Rs.
English Bailiff	...	...	50
District Nazir	...	...	100
Civil Nazir	...	...	25
Senior Naib-Nazir	...	...	20
Naib-Nazir	...	...	15
Madad Muharrir	...	...	10
Madad Naib-Nazir	...	...	10
Execution Bailiff	...	...	8
Process-server, first grade	...	...	6
Process-server, second grade	...	...	5

When two Courts employ the same English Bailiff his



aggregate salary shall not exceed rupees eighty without the sanction of the Chief Court :

Provided that existing establishments and existing salaries shall in all cases remain unchanged until the sanction of the Chief Court has been given to any alterations.

II. Whenever it is necessary to employ additional persons as process-servers, that is to say, persons other than the registered process-servers the pay of a person so employed shall be at the rate of five rupees per month.

Pay of extra process-servers.

*See Rules and Orders of the Chief Court of the Punjab, pp 198 to 204.*

## APPENDIX B.

### PART III.—RULES UNDER SECTION 22.

Rules made by the Chief Court and the Financial Commissioners, with the approval of the Local Government and of the Governor-General of India in Council, under the power conferred by section 22 of the Court-Fees Act, VII of 1870, regarding the number of persons necessary to be employed for the service and execution of processes issued out of the Civil, Criminal and Revenue Courts established within the local limits of their jurisdiction, respectively.

#### RULES.

I. The Chief Court shall fix, and shall from time to time, as may be necessary, alter the maximum number of process-servers to be retained for the Court of each Commissioner, Divisional and Sessions Judge, and for each District in the Province.

Chief Court to fix maximum number of process-servers.

II. The number of process-servers to be retained in each district shall be allotted by the District Judge, subject to the control of the Divisional Judge and Chief Court, to the various Courts of the District in such manner

Allotment of process-servers amongst the various Courts of each District.



as shall be most convenient for the service of processes.

III. In submitting proposals with regard to the maximum number of process-servers to be retained in any district, and in distributing the process-servers retained amongst the various Courts, the District Judge should ascertain (and report when necessary) the number of processes issued from his own Court and from every other Civil, Revenue and Criminal Court in the district during each month of the previous year; and the maximum number of process-servers fixed for each Court shall be so many as are sufficient for the service of the largest number of processes ascertained to have been issued in any one month. In calculating the number of process-servers capable of serving such ascertained number of processes, regard shall be paid to,—

- (a) the average distance travelled by the peon;
- (b) the nature of the country to be traversed and the local circumstances;
- (c) the number of process-servers by whom the processes were actually served.\*

IV. Should it appear to the Court, on the motion of a party to a suit or proceeding, or otherwise, that, for the convenience of the parties or for some other reason, it is expedient that any process should be executed by special messenger, such process shall be so executed. Except in the case of a warrant for the arrest of the person, a special fee will be payable for such 'emergent service;' and the Court will, at the time of passing the order, declare by whom the fee shall be paid and whether it shall be included in the costs of the suit or be charged to a particular party.

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\* In fixing the number of process-servers regard must be had to the system of serving processes through agencies located in Tahsils, recently introduced.



Process-servers to be employed exclusively on process service.

executing processes.

V. The process-servers entertained under these rules shall be employed exclusively in the work of serving and

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PART IV.— SUBSIDIARY INSTRUCTIONS REGARDING PROCESS-FEES AND PROCESS-SERVING ESTABLISHMENTS FOR THE GUIDANCE OF THE COURTS AND PROCESS SERVERS IN THE PUNJAB.

1. Process-serving establishments are appointed and dealt with in accordance with sections 36 to 38 of the Punjab Courts Act, 1884, as amended.

2. Every appointment of a process-server shall be registered in the Court, with the following particulars :—the name of the process-server, his age, his place of abode, his father's name, and the date of appointment. The names of the process-servers should be entered according to the date of their appointment in a register containing the above particulars, and a column of remarks should be added for the entry of such notice respecting the conduct of each process-server as the presiding Judge may from time to time deem it necessary to record.

3. There shall be one such register for the Commissioner's Court, one for the Court of a Divisional Judge, one for the District Judge's Court and subordinate Courts, and one for each Court of Small Causes.

4. No person who is not a registered process-server shall be employed in the service or execution of any Civil or Criminal process without the special leave of the Court, and such leave shall only be given in cases of necessity, and the reason for granting it shall be recorded.



5. Every registered process-server shall be supplied with a belt and badge showing in English and Vernacular the Court to which he belongs. The cost of these shall be defrayed from judicial contingencies.

Process-server to be supplied with belt and badge.

6. The total amount of contingencies expended on process-serving establishments shall not exceed ten *per cent* of the cost of such establishment for the year.

Contingencies.

7. Process-servers shall be of two grades. Persons who can read and write should be preferred.

Process servers to be of two grades.

8. The first grade of process-servers will be selected with reference to conduct and qualification, and, in future promotions, due consideration should also be given to claims founded on seniority.

First grade, how to be selected.

9. No process shall be prepared or issued until the proper Court-fee has been filed. When the Court-fee has been put in, the process shall be prepared, and the Court-fee label affixed to the diary of process fees and immediately punched, leaving the party to issue the process or not as he thinks fit. This will obviate the necessity for any refund of the value of Court-fees filed on account of processes which are not eventually issued.

Process not to be prepared or issued till Court-fee is filed.

10. On every process issued from any Court there shall be recorded the name of the process-server deputed to serve or execute the same, the period within which the process-server is required to certify service or execution, the amount of fee paid and the date of payment; and the date of return after service or execution shall be subsequently endorsed. Such endorse-

Particulars to be recorded on each process.



ments shall be signed by the Názir or Náib-Názir, or Bailiff.

11. An account of process fee stamps filed, of processes issued (Civil, Revenue and Criminal), of the number of process-servers, employed, of the cost of establishment and of contingencies, shall be kept for each Court where a separate establishment is entertained. The account of the Courts at the Sadar must be shown in two grades (see rules I and II of the rules contained in Part I of these Rules).

Accounts to be kept.

12. A statement giving information on the above points will be submitted with the annual civil reports.

Annual statement.

13. With record of each Civil and Revenue case, and of each Criminal case in which process fees are levied should be kept a separate sheet of paper, which should be devoted to the sole purpose of maintaining a record of process fees, to be termed the 'Diary of process fees.' This diary should be in the prescribed form, and should form a portion of File A. In it entries should be made in chronological order of every process ordered to be issued in the case, and the stamps should be affixed opposite each entry and cancelled immediately upon being affixed.

Diary of process fees.

*See Rules and Orders of the Chief Court of the Punjab, pp 204 to 207.*

## APPENDIX C.

*Description of stamps to be used for denoting fees chargeable under the Court-Fees Act.*

Attention is directed to the annexed extracts from the Punjab Stamp Manual, Edition of 1888, which give a description of Stamps to be used under the Court-Fees Act.—

Description of Court-Fee Stamps.



“ 132. Section 26 provides that the stamps to be used under the Act shall be impressed or adhesive, or partly impressed and partly adhesive, as the Governor-General in Council may from time to time direct. Accordingly in Notification No. 1520, dated 5th March 1875, it was directed that, from and after the 1st of April 1875, fees chargeable under the Act should be denoted only by adhesive stamps bearing the words ‘Court-Fees’; consequently all previous orders relating to judicial stamps of other descriptions, including the old bi-color (red and black) stamped paper and *talabana* stamps, were thereby superseded. But the above notification was in turn displaced by Notification No. 361, dated 18th April 1883, wherein the Governor-General in Council was pleased to issue the following directions :—

“ I. When in any case the fee chargeable under the Act is less than Rs. 10, such fee shall be denoted by adhesive stamps only. Such adhesive stamps shall either be the adhesive stamps bearing the words ‘Court-Fees’ at present in use, or adhesive stamps of any different shape, size or pattern, bearing the words ‘Court-Fees,’ which may hereafter be issued for use, in supersession of, or in addition to the adhesive stamps now in use.

“ II. When in any case the fee chargeable under the Act amounts to or exceeds Rs. 10, such fee shall be denoted by impressed stamps bearing the words ‘Court-Fees,’ adhesive stamps being only employed to make up fractions of less than Rs. 10.

“ III. If in any case the amount of the fee chargeable under the Act involves a fraction of an anna, such fraction shall be remitted.

“ IV. This notification shall take effect on and after the 1st June 1883.



“ 133. There are consequently now three distinct kinds of Judicial stamps in use : (i) adhesive stamps of the old patterns ; (ii) adhesive stamps of the new patterns ; and (iii) impressed stamps.”

*See Rules and Orders of the Chief Court of the Punjab, pp 194 to 195.*

## APPENDIX D.

### NOTIFICATION REDUCING AND REMITTING COURT- FEES.

*No. 4650, dated the 10th September, 1889 [ Gazette of India, 1889, Part 1, p. 506 ]*

Under section 35 of the Court-fees Act, VII of 1870, and in supersession of all previous notifications under that section, it is hereby notified that, in exercise of the power to reduce or remit, in the whole or in any part of British India, all or any of the fees mentioned in the First and Second Schedules to the said Act, the Governor-General in Council has been pleased to make the reductions and remissions hereinafter set forth, namely :

*A.—General for the whole of British India.*

(1) to remit the fees chargeable on applications presented to a Collector for refund of the amount paid to the Government for stamped paper which has become spoiled or unfit for use, and on applications for renewal of stamped paper which has become spoiled or unfit for use ;

(2) to remit the fees chargeable on applications in writing, relating exclusively to the purchase of salt which is the property of the Government ;

(3) to direct that, when a plaint disclosing a reasonable case on the merits is presented to any Civil or Revenue Court in such a form that the presiding Judge or officer, without summoning the defendant, rejects it not for any substantial defect but on account of an entirely technical error in form only, and so as to leave the plaintiff free to prosecute precisely



the same case in another form against the same defendant or defendants, the value of the stamp on the plaint shall be refunded on presentation of an application to the Collector of the district in which the Court is situated, together with a certificate from the Judge or officer who rejected the plaint that it was rejected under the circumstances above described, and that the value of the stamp should, in his opinion, be refunded ;

(4) to remit the fees chargeable on—

(a) copies of village settlement-records furnished to landholders and cultivators during the currency or at the termination of settlement operations ;

(b) lists of fields extracted from village settlement-records for the purpose of being filed with petitions of plaint in Settlement Courts ;

Provided that nothing in this clause shall apply to copies of judicial proceedings, or to copies of village settlement-records (other than lists of fields) extracted as aforesaid, which may be filed in any Court or office ;

\* (5) to declare that the fee chargeable on a plaint filed in a suit for possession of immoveable property under section 9 of the Specific Relief Act, 1 of 1877, shall be one-half of the amount prescribed in the scale of fees for plaints mentioned in article I of the First Schedule ;

(6) to direct that the fee chargeable on appeals from orders under clause (c) of section 244 of the Code of Civil Procedure, Act XIV of 1882, shall be limited to the amounts chargeable under article 11 of the Second Schedule to the Court-Fees Act, 1870.

(7) to remit the fees chargeable on security-bonds for the keeping of the peace by, or good behaviour of, persons other than the executants ;

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\* Clause (5) is superseded by the amendment made in Article 2 of Schedule I of the Court Fees Act, 1870, by Act XII of 1891, Schedule II.



(8) to remit the fee payable under article 1, clause (c), of the Second Schedule on an application or petition presented to a Chief Commissioner, when the application or petition is accompanied by a petition to the Government of India and contains merely a request that that petition may be forwarded to the Government of India ;

(9) to remit the fees chargeable under articles 6, 7 and 9 of the First Schedule on copies furnished by Civil or Criminal Courts or Revenue Courts or Offices for the private use of persons applying for them :

Provided that nothing in this clause shall apply to copies when filed, exhibited or recorded in any Court of Justice or received by any public officer ;

(10) to remit the fees chargeable, under paragraph 4 of clause (a) and paragraph 2 of clause (b) of article 1 of the Second Schedule, on applications for orders for the payment of deposits in cases in which the deposit does not exceed Rs. 25 in amount :

Provided that the application is made within three months of the date on which the deposit first became payable to the party making the application ;

(11) to remit, with reference to clause xi of section 19 of the Act, the fees chargeable on applications for leave to occupy under direct engagement with the Government land of which the revenue is settled, but not permanently, when made by persons who do not at the time of application hold the land ;

(12) to remit the fees chargeable on application for loans under the Land Improvement Loans Act, XIX of 1883, or the Agriculturists' Loans Act, XII of 1884 ;

(13) to remit the fee chargeable on an application made by a person to the Collector under the second paragraph of section 39 of the Indian Stamp Act, I of 1879, for the return to that person, or to the Registration-officer who impounded it,



of a document impounded and sent to the Collector by a Registration-officer ;

(14) to remit the fee chargeable on an application made for transfer of a stock-note from one circle to another under paragraph 6 of Resolution No. 2566, dated the 20th August, 1885 ;

(15) to remit the fees chargeable on the following documents, namely :

(a) copy of a charge framed under section 210 of the Code of Criminal Procedure, or of a translation thereof, when the copy is given to an accused person ;

(b) copy of the evidence of supplementary witnesses after commitment, when the copy is given under section 219 of the said Code to an accused person ;

(c) copy or translation of a judgment in a case other than a summons case, and copy of the heads of the Judge's charge to the jury, when the copy or translation is given under section 371 of the said Code to an accused person ;

(d) copy or translation of a judgment in a summons case, when the accused person to whom the copy or translation is given under section 371 of the said Code is in jail ;

(e) copy of an order of maintenance, when the copy is given under section 490 of the said Code to the person in whose favour the order is made, or to his guardian, if any, or to the person to whom the allowance is to be paid ;

(f) copy furnished to any person affected by a judgment or order passed by a Criminal Court, of the Judge's charge to the jury or of any order, deposition or other part of the record,



when the copy is not a copy which may be granted under any of the preceding sub-clauses without the payment of a fee, but is a copy which, on its being applied for under section 548 of the said Code, the Judge or Magistrate, for some special reason to be recorded by him on the copy, thinks fit to furnish without such payment ;

- (g) copies of all documents furnished under the orders of any Court or Magistrate to any Government Advocate or Pleader, or other person specially empowered in that behalf, for the purpose of conducting any trial or investigation on the part of the Government before any Criminal Court ;
- (h) copies of all documents which any such Advocate, Pleader or other person is required to take in connection with any such trial or investigation, for the use of any Court or Magistrate, or may consider necessary for the purpose of advising the Government in connection with any criminal proceedings ;
- (i) copies of judgments or depositions required by officers of the Police Department in the course of their duties ;

16 to direct that the fee chargeable—

- (a) on an application to a Collector, or to any officer or person discharging all or any of the functions of a Collector, with respect either to liability to assessment, or to the amount of an assessment under Act II of 1886 (*an Act for imposing a tax on income derived from sources other than agriculture*), and



(b) on a copy of an order passed under section 26 of the same Act,  
shall be limited to one anna ;

(17) to remit the fee chargeable on an application presented by any person for the return of a document filed by him in any Court or public office ;

(18) to direct that when a part of an estate paying annual revenue to the Government under a settlement which is not permanent is recorded in the Collector's register as separately assessed with such revenue, the value of the subject-matter of a suit for the possession of, or to enforce a right of pre-emption in respect of, a fractional share of that part shall, for the purposes of the computation of the amount of the fee chargeable in the suit, be deemed not to exceed five times such portion of the revenue separately assessed on that part as may be rateably payable in respect of the share ;

(19) to direct that, if the amount of the fee chargeable in any case involves a fraction of an anna, the fraction shall be remitted, except where otherwise expressly provided by this notification ;

(19 A) to remit the fee chargeable on an application for the grant of a license for the vend of stamps ;

*B — Special for the Presidency of Fort St. George only.*

(20) to direct that the fees chargeable on the following documents filed in claims preferred under Madras Regulation VI of 1831 (*Hereditary Offices*) shall be limited to the amounts specified against each, namely :—

plaint or petition for execution—eight annas ;

memorandum of appeal—two rupees ;

(21) to remit the fees chargeable on copies of judgments or decisions passed on claims preferred under Madras Regulation VI of 1831 (*Hereditary Offices*) ;



(22) to remit the fees chargeable under the First Schedule on plaints in summary suits brought before Collectors under Madras Act VIII of 1865 (*An Act to consolidate and improve the laws which define the process to be taken for the recovery of rent*) ;

(23) to reduce the fees chargeable in suits by Government raiyats, for the recovery of land sold for arrears of revenue, to the amount which would be chargeable if the value of the subject-matter were only the rent of the land payable for the year next before the date of presentation of the plaint.

*C.—Special for the Bombay Presidency only.*

(24) to remit the fees chargeable under the Second Schedule on agreements required by rule 75 of the rules made by the Governor of Bombay in Council under clause (i) of section 214 of the Bombay Land-revenue Code (Bombay Act V of 1879);

\* (25) to direct that the fee chargeable on a plaint presented under the Mamlatdars' Court Acts (Bombay Act III of 1876) shall not exceed eight annas ;

(26) to reduce to a uniform rate of four annas per copy the fee chargeable under article 7 of the First Schedule on copies of decrees or orders having the force of a decree issued by Mamlatdars under the Mamlatdars Courts Act (Bombay Act III of 1876);

(27) to remit the fees chargeable under article 1 of the Second Schedule on all applications made to a Collector or other Revenue officer, or to the Chief Controlling Revenue-Authority, by any of the undermentioned political pensioners, being the eldest sons or representatives of the ex-Amirs of Sindh and Sirdar of note :

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\* Clause (25) is superseded by the amendment made in Article 4 of Schedule II of the Court-fees Act, 1870, by Act XII of 1891, Schedule II.



-District.	Number and Names of Pensioners.	
Karachi	...	1. Jam Murad Ali, son of Jam Mehr Ali, Jokia.
Hyderabad	...	1. His Highness Mir Hasan Ali Khan, son of Mir Nasir Khan, Talpur.
		2. His Highness Mir Nur Muhammad Khan, son of Mir Hasan Ali Khan, Talpur.
		3. His Highness Mir Fateh Khan, son of Mir Sher Muhammad Khan, Talpur.
		1. Mir Imam Baksh Khan, son of Mir Muhammad Hasan Khan.
		2. Mir Walidad Khan, son of Mir Muhammad Hasan Khan.
		3. Mir Ahmed Khan, son of Mir Muhammad Hasan Khan.
		4. Mir Fazl Hasan Khan, son of Mir Sohrab Khan.
		5. 3rd Dehra of the late Mir Muhammad Hasan Khan.
		6. 1st Dehra of the late Mir Sohrab Khan.
		7. 2nd Dehra of the late Mir Sohrab Khan.
Shikarpur	...	8. Mir Najaf Ali Khan, walad Mir Ali Akbar Khan.
		9. Mir Abdul Kadir Khan, walad Mir Ali Akbar Khan.
		10. Mir Ali Madat Khan, son of Mir Nasir Khan.
		11. Mir Ali Ahmed Khan, walad Mir Nasir Khan.
		12. Bibi Vilayat, 2nd Dehra of the late Mir Nasir Khan.
		13. Chand Bibi, 3rd Dehra of the late Mir Nasir Khan.
		14. Naz Bibi, 2nd Dehra of the late Mir Muhammad Ali Khan.



District.	Number and Names of Pensioners.
Shikarpur	15. Mir Mubarak Khan, walad Mir Wali Muhammad Khan.
	16. Mir Gul Hasan Khan, walad Mir Wali Muhammad Khan.
	17. Mir Khan Muhammad Khan, walad Mir Wali Muhammad Khan.
	18. Mir Yar Muhammad Khan, walad Mir Wali Muhammad Khan.
	19. Bibi Chanae, 1st Dehra of Mir Wali Muhammad Khan.
	20. Mir Ali Baksh Khan, walad Mir Fazl Muhammad Khan.
	21. Mir Amir Baksh Khan, walad Mir Fazl Muhammad Khan.
	22. Mir Gulam Murtaza Khan, walad Mir Chakar Khan.
	23. Chief Dehra of the late Mir Ali Muhammad Khan.
	24. 2nd Dehra of the late Mir Ali Muhammad Khan.

(28) to remit the fees chargeable on complaints under section 16 of the Dekkhan Agriculturists' Relief Act, XVII of 1879, except in the district of Satara, where the said fees shall be reduced to one-half ;

(29) to remit the fees chargeable in respect of the documents specified in the First or Second Schedule in the case of suits for the redemption of mortgaged property when the plaintiff or, where there are several plaintiffs, any one of the plaintiffs is an agriculturist, and when such suits are instituted within the districts of the Bombay Presidency in which the Dekkhan Agriculturists' Relief Act, XVII of 1879, is in force, except in the district of Satara, where the said fees shall be reduced to one-half;



(30) to remit the fees chargeable in respect of powers-of-attorney furnished to relatives, servants or dependents under section 68 of the Dekkhan Agriculturists' Relief Act, XVII of 1879 ;

(31) to remit the fees chargeable in respect of the documents specified in the First or Second Schedule in the case of suits instituted before village-munsifs under Chapter V of the Dekkhan Agriculturists' Relief Act, XVII of 1879 ;

(32) to remit the fees chargeable in respect of proceedings taken under section 19, second clause, of the Dekkhan Agriculturists' Relief Act XVII of 1879 ;

(33) to remit the fees chargeable in respect of proceedings in matters relating to insolvency under Chapter IV of the Dekkhan Agriculturists' Relief Act, XVII of 1879 ;

(34) to reduce to one-half the fees chargeable in the case of suits to which Chapter II of the Dekkhan Agriculturists Relief Act, XVII of 1879, applies except suits of the description mentioned in section 3, clause (w) or clause (x), of that Act to which an agriculturist is not a party :

Provided that, when the reduced fee amounts to a fraction of an anna, the fee chargeable shall be one anna ;

(35) to remit the fees chargeable on copies of documents furnished by a Court of Session or the High Court in the Presidency of Bombay, or by the Sadar Court in Sind, to a pleader appointed by the Court to defend a person accused of murder ;

*D.—Special only for Bengal.*

(36) to remit in the Hill Tracts of Chittagong all the fees mentioned in the First and Second Schedules ;

(37) to declare that the proper fee to be charged upon an application to deposit in any Court rent, not exceeding the sum of fifteen rupees, shall be as follows :



## Proper Fee.

If the amount deposited does not exceed

Rs. 2-8 . . . . . one anna.

If the amount deposited exceeds Rs. 2-8 but

does not exceed Rs. 5 . . . two annas.

If the amount deposited exceeds Rs. 5 but

does not exceed Rs. 10 . . . four annas.

If the amount deposited exceeds Rs. 10 but

does not exceed Rs. 15 . . . six annas.

Provided that no fee shall be chargeable on an application to deposit rent in respect of which a fee is chargeable under any rule framed under sub-section (2) of section 61 of the Bengal Tenancy Act, VIII of 1885 ;

*E.—Special for the North-Western Provinces only.*

(38) to reduce to eight annas the fee chargeable on a copy of any number of entries in a settlement-record relating to any one village in Kumaon or Garhwal ;

(39) to remit the fees chargeable on all documents filed, exhibited or recorded in, or received or furnished by, the Court of the Special Judge appointed under the Jhansi Encumbered Estates Act, XVI of 1882 ;

(40) to remit the fees chargeable on all documents connected with the proceedings in the Court of the Commissioner under the Jhansi Encumbered Estates Act, XVI of 1882, except on memoranda of appeal and on applications for revision of any decision or order of the Special Judge under Chapter VI of the said Act ;

(41) to direct that the fee chargeable on any appeal against a decision of the Special Judge under Chapter VI of the Jhansi Encumbered Estates Act, XVI of 1882, shall not exceed eight annas ;

*F.—Special for the Panjab only.*

(42) to remit the fees chargeable on copies of orders or proceedings under section 37 of the Punjab Land-



revenue Act, XVII of 1887, made or recorded by Collectors or other Revenue-officers engaged in revising a record-of-rights under a notification published in accordance with section 32 of the said Act :

Provided that the copy is furnished for the purpose of being filed with an application or petition to a Collector or other Revenue-officer engaged as aforesaid in revising a record-of-rights, or to the Commissioner of the division, or to the Financial Commissioner, Punjab, relating to matters connected with the assessment of land or the ascertainment of rights thereto, or interests therein, if presented previous to the final confirmation of such revision ;

(43) to remit the fees chargeable on applications under section 27 of the Punjab Land-revenue Act, XVII of 1887, made by village-officers in accordance with the provisions of rule 83 of the rules under that Act published with the Notification of the Punjab Government, No. 76, dated the 1st March 1888 ;

(43 A) to remit in the territories administered by the Lieutenant-Governor of the Punjab the fees chargeable on plaints in suits brought against British subject by Bhuttanies ordinarily residing outsidess British India,—

- (i) for the recovery of debts ;
- (ii) appertaining to the custody of a woman, or
- (iii) appertaining to inheritance.

*G.—Special for Lower Burma only.*

(44) to remit the fees chargeable on the following documents furnished to cultivators, namely :

certified copies of maps showing the holdings of cultivators, or of extracts from the settlement or supplementary survey registers connected therewith;

(45) to remit the fees chargeable on applications for advances under rule 146 of the rules framed under the Burma Land and Revenue Act, II of 1876 ;



*H.—Special for Upper Burma only.*

(46) to remit the fees chargeable on plaints, applications, petitions and copies which are filed, exhibited or recorded in the Court of a Circle Officer, or in any Court presided over by a Thugyi or Myothugyi, or which are received or furnished by a Thugyi or Myothugyi :

for the purposes of this clause the expression "Thugyi or Myothugyi" includes any person, however designated, who in any part of Upper Burma occupies a position similar to that which is held in other parts by a Thugyi or Myothugyi ;

*I.—Special for the Central Provinces only.*

(47) to direct that the fee chargeable on a petition of objection to assessment under Act XIV of 1867 (*An Act to provide for the assessment of the Pandhari-tax in certain parts of the Central Provinces*) shall, whatever may be the amount of the assessment to which the petition relates, be limited to one anna ;

\* *K.—Special for the Bombay Presidency, Bengal, the North-Western Provinces and Oudh, the Punjab, Lower Burma, the Central Provinces, Ajmere and Coorg.*

\* 48 to direct that, whenever, upon payment of the full fee, a certificate of administration has been granted under Act XL of 1858 † (*An Act for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*) or Act XX of 1864 † (*An Act for making better provision for the care of the persons and property of Minors in the Presidency of Bombay*), and a fresh certificate is for any reason subsequently granted in respect of the same estate, no fee shall be chargeable upon the fresh certificate so granted.

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\* Clause K (48) is obsolete.

† Act XL of 1858 and XX of 1864 were repealed by Act VIII of 1890.



(49). To direct that no Court-fee shall be charged on an application for the repayment of a fine or of any portion of a fine, the refund of which has been ordered by competent authority.

## APPENDIX D.

### REFUND OF COURT FEE STAMPS.

## GOVERNMENT OF INDIA.

### DEPARTMENT OF FINANCE AND COMMERCE.

#### SEPARATE REVENUE.

#### STAMPS.

#### Judicial, &c.

#### Sale, &c.

#### RESOLUTION.

*Calcutta, the 11th January 1888.*

#### READ—

Resolution of the Government of India in this Department, No. 2345, dated the 26th December 1884.

Letter to the Government of Bombay, No. 230, dated the 20th April 1885.

Letter from the Government of Madras, No. 953, dated the 30th September 1887.

RESOLUTION.—In supersession of all existing orders on the subject, the Governor-General in Council is pleased to authorise the refund of the value of impressed Court-fee Stamps and of Court-fee adhesive labels in accordance with the following rules :—

1.—(a) When any person is possessed of impressed Court-fee Stamps for which he has no immediate use, or which have been spoiled or rendered unfit or useless for the purpose intended, or

(b) When any person is possessed of two or more (or in the case of denominations below Rs. 5, 4,



or more) Court-fee adhesive labels which have never been detached from each other and for which he has no immediate use,

the Collector shall, on application, repay to him the value of such stamps or labels in money, deducting one anna in the rupee, upon such person delivering up the same to be cancelled and proving to the Collector's satisfaction that they were purchased by him with a *bona fide* intention to use them, that he has paid the full price thereof and that they were so purchased or, in the case of impressed Court-fee Stamps, so purchased, spoiled or rendered useless, within the period of six months preceding the date on which they are so delivered: Provided that Local Governments may, in special cases, allow refunds when application is made within one year from the date of purchase of the stamps or labels, or, also in the case of impressed Court-fee Stamps, within one year from the date on which the stamps were spoiled or rendered useless. The Local Governments may at their discretion, delegate this power to any subordinate authority.

When a licensed vendor surrenders his license or dies, the Collector may, at his discretion, if he considers that the circumstances justify the application, repay to him or his representatives, as the case may be, the values of stamps and labels, not spoiled or rendered unfit for use, returned into the Collector's store, deducting one anna in the rupee, or he may issue stamps and labels of other values in exchange, provided that, in the case of adhesive Court-fee labels, their value may not be refunded, nor stamps and labels of other values issued in exchange, unless, in cases where the value of each label is not less than Rs. 5, there are at least two such labels which have never been detached from each other; and in cases where the value of



each label is less than Rs. 5 unless there are at least four such labels which have never been detached from each other.

3. When adhesive labels are attached to impressed sheets of Court-fee Stamps in accordance with the directions contained in Notification by the Government of India in this Department, No. 361, dated the 18th April 1883, such labels should be regarded as impressed stamps for the purposes of refund under these rules.

(*Punjab Government Notification No. 125, dated 24th January 1888 ; Punjab Gazette of 20th idem, Part I, page 17*).

#### NUMBER OF STAMPS TO BE USED FOR DENOTING FEES.

(b) With reference to the Notification of the Government of India, in the Department of Finance and Commerce, No. 361, dated 18th April 1883, the Hon'ble the Lieutenant-Governor, under the authority vested in him by Section 27, clause (b) of Act VII of 1870 (*The Court Fees Act*), is pleased to make the following rules for regulating the number of stamps to be used for denoting any fee chargeable under the said Act.

Punjab Government Notification No. 654, dated 10th April 1875, and rules 7 and 9 published under Punjab Government Notification No. 1362, dated 19th September 1870, are hereby superseded :—

1. When in the case of fees amounting to less than Rs. 10, the amount can be denoted by a single adhesive stamp, such fee shall be denoted by a single adhesive stamp of the required value ; when the amount cannot be denoted by a single adhesive stamp, or when a single adhesive stamp of the required value is not available, an adhesive stamp of the next lower value available shall be used, and the deficiency shall be made up by the use of one or more additional adhesive stamps of the next lower values which may be required to make up the exact amount of the fee.



2. When in the case of fees amounting to or exceeding Rs. 10, the amount can be denoted by a single impressed stamp, such fee shall be denoted by a single impressed stamp of the required value; when the amount cannot be denoted by a single impressed stamp, or when a single impressed stamp of the required value is not available an impressed stamp of the next lower value available shall be used, and the deficiency shall be made up by the use of one or more additional impressed stamps of the next lower values available which may be required to make up the fees in combination with adhesive stamps to make up fractions of less than Rs. 10.

3. Adhesive stamps used in combination with impressed stamps under rule 2 shall be affixed to the impressed stamp of the highest value employed in denoting the fee.

4. When two or more impressed stamps are used under rule 2, a portion of the subject-matter shall be attested on each impressed stamp so used and the writing on each stamp shall be attested by the signature of the person or persons executing the document.

5. When one or more impressed stamps used to denote a fee are found insufficient to admit of the entire document being written on the side of the paper which bears the stamp, so much plain paper may be joined thereto as may be necessary for the complete writing of the document, and the writing on the impressed stamps and on the plain paper shall be attested by the signature of the person or persons executing the document.

*(Notification No. 101, dated 29th November 1883, Punjab Gazette of 6th December, Part I, page 743).*

#### RENEWAL OF STAMPS.

(c). The Hon'ble the Lieutenant-Governor is pleased, in exercise of the authority vested in him by Section 27, clause (c) of Act VII of 1870 (the Court Fees Act), to



make the following rules for regulating the renewal of damaged or spoiled Court-fee stamps, in supersession of rules 10 to 13, published under Punjab Government Notification No. 1362, dated 19th September 1870, and of all other rules on the subject :—

1.—For the purposes of these rules, the renewal of a damaged or spoiled stamp means the supply in lieu thereof of a fresh stamp or stamps of a similar kind and equal value : provided that non-judicial stamps shall not be given in exchange for damaged or spoiled Court-fee stamps.

II.—A stamp shall be deemed to be damaged or spoiled in the following cases only, namely :—

- (1). When the stamp, or the paper on which it is impressed or affixed, has been inadvertently and undesignedly spoiled, obliterated, or by any means rendered permanently unfit for use, whether the said paper be written upon or not.
- (2). When, by reason of some material error in the writing or copying of a stamped document it shall become of no avail.
- (3). When the purpose intended to be effected by a stamped document has been effected by some other document duly stamped.

III.—Subject to the provisions of Rule IV, damaged or spoiled stamps of the following descriptions only may be renewed :—

- (1), Impressed stamps.
- (2). Adhesive stamps used in combination with impressed stamps, in accordance with any rule for the time being in force made under Section 27, clause (b), of the Court Fees Act, 1870.



IV.—If any person is possessed of a damaged or spoiled stamp of either of the descriptions mentioned in Rule III, and delivers up the same to the Collector for cancellation, and applies for its renewal within six months after the stamp has become damaged or spoiled, the Collector may, if satisfied of the sufficiency of the grounds of the application, cancel and renew such stamp.

V.—All stamps cancelled under Rule IV shall be forwarded to the Superintendent of Stamps, Punjab, for destruction.

(Notification No. 1162, dated 9th May 1885, Punjab Gazette of 14th idem, Part I, page 345.)

*I.—The supply and sale of Stamps.*

The Hon'ble the Lieutenant-Governor is pleased, in supersession of the notifications marginally mentioned, to prescribe the following revised rules, under section 55 of Act I of 1879, and section 27 of Act VII of 1870, for regulating the supply and sale of non-judicial and judicial stamps, the persons by whom such sale is to be conducted, and the duties and remuneration of such person:—

No. 1729, dated 4th July 1885.

No. 1672, dated 8th August 1891.

No. 58, dated 14th January 1892.

No. 800, dated 28th April 1893.

No. 89, dated 10th January 1895.

I.—For the purposes of these rules, stamps are divided into six classes, namely—

*Non-judicial (under Act I of 1879).*

- (1) Impressed stamps, other than impressed labels and hundi stamps.
- (2) Adhesive labels of the value of one anna, commonly called "receipt stamps."
- (3) All other adhesive stamps authorized by section 10.
- (4) Hundi stamps.



*Judicial (under Act VII of 1870),*

- (5) Impressed Court-fee stamps.
- (6) Adhesive Court-fee stamps (new pattern) with lines provided for enfacement under rule XI.

II.—All Government Treasurers and their agents and subordinates entrusted with the custody and sale of stamps on behalf of Government in all sadr and tahsil treasuries, and such other persons as the Financial Commissioner may appoint, shall be *ex-officio* vendors, and shall sell to licensed vendors and to the public, on application, all kinds of stamps mentioned in rule I.

III.—Such persons as may be licensed by the Deputy Commissioner of the district or other officer empowered by the Local Government to grant licenses, shall be *licensed* vendors. They shall sell only such stamps as are indicated in their licenses ; they may be licensed to sell any or all of the kinds of stamps mentioned in rule I.

IV.—*Ex-officio* vendors may also be licensed, at the discretion of the Deputy Commissioner of the district or other officer empowered by the Local Government, to grant licenses; provided that no officer charged with the duty of affixing or cancelling judicial stamps shall be licensed to sell Court-fee stamps.

V.—The license shall be in the following form and shall be revocable at any time by the Local Government, or by the authority who granted it:—

#### FORM OF LICENSE.

License is hereby granted to (*name, father's name and residence of licensee*) to sell at (*place of vend*) stamps of the description mentioned in the margin for a period of (*here state duration of license*), commencing from (*date*), subject to the rules made on that behalf, under the Indian Stamp Act, 1879, and the Court-fee Act, 1870, and subject to the following condi-



tions (*here state conditions, if any*). The infringement of any of these rules will render the holder liable to the penalty prescribed in section 68 of Act I of 1879, namely, imprisonment for a term which may extend to six months, or fine not exceeding five hundred rupees, or both.

(*Signature of Deputy Commissioner or other licensing authority.*)

VI.—Subject to rules VII and VIII, every licensed vendor who purchases stamps of the kinds authorized by his license from an *ex-officio* vendor by payment of ready money shall receive the same at the following rates of discount:—

Description of stamp.	Rate of discount.
CLASS (1) —	
At places where there are <i>ex officio</i> vendors	3 per cent.
At places where there are no <i>ex-officio</i> vendors.	5 „
CLASS (2) ... ..	6 $\frac{1}{4}$ „
CLASS (3) AND (4) —	
When the value of each stamp does not exceed eight annas.	6 $\frac{1}{4}$ „
When the value exceeds eight annas ...	3 $\frac{1}{8}$ „
CLASS (5) AND (6) ... ..	1 $\frac{9}{16}$ „

Provided that no discount shall be allowed under this rule on the sale of stamps to persons not being licensed vendors, nor of kinds not mentioned in rule I, nor on the sale of any stamp exceeding fifty rupees in value, nor when the total value of the stamps purchased at one time is less than five rupees.



VII.—Deputy Commissioners may, in their discretion, grant special licenses for the sale of stamps of the kind falling under class (1) of rule I, to Sub-postmasters in their respective districts at places other than the head-quarters of a tahsil, subject to the following conditions ; and may also, in their discretion, withdraw or cancel such special licenses :—

- (a) Any Sub-postmaster specially licensed under this rule may, at the time of being licensed, receive without payment of ready money an advance of stamps of the class that he is licensed under this rule to sell, of an aggregate value not exceeding fifty rupees ; the Sub-postmaster receiving such advance shall give a receipt for the money value thereof, which receipt shall be renewed from year to year in the manner prescribed for permanent advances on account of contingent expenditure ; when he ceases to be licensed or desires to discontinue the advance, the Sub-postmaster shall refund the value entered in the receipt, either in money or in stamps of the class which he is licensed to sell, and the receipt shall then be returned to him.
- (b) Stamps of the kind falling under class (1) of rule 1, other than those included in the above-mentioned advance, shall be supplied to Sub-postmasters specially licensed under this rule on payment of ready money for their value, less a discount of 2 per cent.
- (c) The stamps supplied to licensed Sub-postmasters under this rule, as well as their remittances of the value to the nearest Treasury, shall be sent through the post in insured parcels, the charges for postage and insurance being borne by the Stamp department.



VIII.—With the previous sanction of the Financial Commissioner, Deputy Commissioners may, in their discretion, grant special licenses for the sale of stamps of class (2) to any Patwaris employed in their respective districts, subject to the following conditions; and may also, in their discretion, withdraw or cancel such special licenses:—

- (a) Any Patwari specially licensed under this rule may, at the time of being licensed, receive without payment of ready money an advance of stamps of class (2) of an aggregate value not exceeding five rupees; the Patwari receiving such advance shall give a receipt for the money value thereof, which receipt shall be renewed from year to year in the manner prescribed for permanent advances on account of contingent expenditure; when he ceases to be licensed, or desires to discontinue the advance, the Patwari shall refund the value entered in the receipt, either in money or in stamps of class (2); and the receipt shall then be returned to him.
- (b) Stamps of class (2), other than those included in the above-mentioned advance, shall be supplied to Patwaris specially licensed under this rule on payment of ready money for their value, less a discount of  $6\frac{1}{4}$  per cent.: provided that no discount shall be allowed when the value of the stamps purchased at one time is less than five rupees.
- (c) The stamps supplied to licensed Patwaris under this rule, as well as their remittances of the value to the nearest Treasury, shall be sent through the post in insured parcels, the charges for postage and insurance being borne by the Stamp department.



IX.—Every licensed vendor shall exhibit conspicuously, at his place of vend, a signboard bearing his name and the words "Licensed Vendor of Stamps." He shall also have at the same place, for reference on application by intending purchasers, a copy of these rules and of the Acts of the Legislature relating to the stamps sold by him.

X.—Every vendor shall endorse, on each stamps of class (1) or (2) which he sells the following particulars:—

- (a) a serial No., there being a separate series for each calendar year;
- (b) date of sale;
- (c) name, father's name, and residence of purchaser;
- (d) value of stamp in full, in words;
- (e) his ordinary signature.

He shall at the same time make a corresponding entry in a register to be kept in the following form provided that when an *ex-officio* vendor sells stamps of class (1) or (5) to a licensed vendor, no such endorsement or entry shall be made:—

Date of sale.	Serial No.	Value of stamp in full, in words.	Description of stamp.	Name, father's name, and residence of purchaser.	Purpose for which required.



XI.—Every vendor shall enface on each stamp of class (6) which he sells the following particulars.—

- (a) name of purchaser ;
- (b) date of sale ;
- (c) his ordinary signature ;

Provided that when an *ex-officio* vendor sells stamps of class (6) to a licensed vendor no such enfacement shall be made.

XII.—No vendor shall knowingly make—

- (a) a false endorsement on any stamp sold under rule X, or
- (b) a false enfacement on any stamp sold under rule XI, or
- (c) a false entry in the register prescribed in rule X.

XIII.—In addition to the register mentioned in rule X, every *ex-officio* vendor shall keep such registers and accounts as may be prescribed from time to time by the Superintendent of Stamps.

XIV. Every vendor shall allow the Deputy Commissioner of the district, or other officer duly authorized by him or by the Local Government, at any time to inspect the registers and accounts which he is required to maintain by rules X and XIII, and to examine the store of stamps in his possession.

XV.—Every vendor shall, at any time, on the demand of the Deputy Commissioner of the district, or other officer duly authorized by him, or by the Local Government, deliver up all stamps remaining in his possession ; and if such stamps have been paid for, he shall receive back the value thereof, less any discount which may have been allowed.

XVI.—Every licensed vendor shall, without delay, deliver any stamp which he has in his possession for sale, on demand by any person tendering the value thereof in any currency which would be accepted on behalf of Gov-



ernment at the Government Treasury, and he shall not demand or accept therefor any consideration exceeding its proper value: provided that no vendor shall sell stamps of any kind, the use of which has been ordered by competent authority to be discontinued.

XVII.—(i) Every *ex-officio* or licensed stamp vendor to whom application for an impressed sheet is made shall supply a single sheet of the required value, unless no single sheet of the value in question is available.

(ii) If no single sheet of the value required is available, the vendor shall supply the smallest number of sheets he can furnish that may be sufficient to make up that value, and shall certify upon each of the sheets supplied and in his vend register that he is unable to furnish a single stamp of the required value, and that the number of sheets supplied is the smallest that he can furnish sufficient to make up that value.

(iii) No certificate shall be made under the above rule by a stamp vendor in any case in which the stamp duty required exceeds the highest value of the stamps which such vendor is authorized to sell.

XVIII.—(i) Every *ex-officio* or licensed vendor to whom application for a Court-fee stamp is made shall supply a single stamp of the required value, unless no stamp of the value in question is available.

(ii) If no single stamp of the value required is available, the vendor shall supply the smallest number of stamps he can furnish to make up that value, and if any or all of the stamps supplied are impressed sheets, shall certify upon each sheet supplied and in his vend register that he is unable to furnish a single stamp of the required value, and that the number of stamps supplied is the smallest that he can furnish sufficient to make up that value.



(iii) No certificate shall be made under the above rule by a stamp vendor in any case in which the stamp duty required exceeds the highest value of the stamps which such vendor is authorized to sell.

XIX.—Any person other than an *ex-officio* or licensed vendor, who sells or offers for sale any stamps of class (1), or (2), or (3), or (4), is liable to the penalty prescribed in section 68 of the Indian Stamp Act, 1879, namely, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.—*Punjab Government Notification No. 1745, dated the 16th September 1895, Punjab Gazette of 19th idem, Part I, page 452.*

## APPENDIX E.

### C.—Cancellation of Court-Fee Stamps.

Rules made by the Chief Court under the power conferred by section 30 of the Court-Fees Act, VII of 1870, and all other powers in that behalf, regulating the cancellation of Court-fee stamps.

#### RULES.

##### I. Cancellation of Court-fee

Cancellation, when to  
be effected, stamps shall be effected,

- (a) when a document bearing a Court-fee stamp is received by a Court competent to receive the same ;
- (b) when a Court-fee stamp is paid in as a process fee ;
- (c) when a Court-fee stamp is affixed to a document issued by any Court or Office ;
- (d) when the record of a case in which Court-fee stamps have been filed is finally made over to the record-keeper for safe custody.



II. In the case of stamps falling under clauses (a) and (b), cancellation shall be effected immediately on receipt of the document or stamp, by such officer as the Court may from time to time appoint in writing, in the manner prescribed by section 30 of the Court-Fees Act. As an additional precaution, the signature of the cancelling officer, with the date, shall be written across each label, at the time of cancellation, in durable ink.

Cancellation, by whom  
to be effected.

III. In regard to stamps on documents falling under clause (c), the Government of India have directed in Financial Department Resolution No. 3373, dated the 24th September 1876, that the Court or Office *issuing* copies, certificates, or other similar documents liable to stamp duty under the Court-Fees Act, shall, *before issue*, cancel the labels affixed to them by punching out a portion of the label in such a manner as to remove neither the figure head nor that part of the label on which its value is expressed, and that, as an additional precaution, the signature of the officer attesting the document, with the date, shall be written across the label, and upon the paper on either side of it.

Cancellation by record-  
keeper.

IV. The rules for the cancellation of Court-fee stamps by the record-keeper are contained in a resolution of the Government of India in the Financial Department, No. 1763, dated the 24th July 1873, in which it is ordered that the record-keeper of every Court shall, when a case is decided and the record consigned to his custody, punch a second hole, or, in the case of stamps falling under clause (c), rule I of these rules, a third hole, in each label, distinct from the first, *and note the date of doing so at the same time*. Special attention is requested to the words in italics, as the



direction therein contained is not always complied with. The record-keeper's punching should not remove so much of the label as to render it impossible or difficult to ascertain its value or nature. From the annexed copy of a resolution of the Government of India No. 3047, dated 5th September 1883, it will be seen that these directions apply only to *adhesive labels* used under the Act, and not to *impressed stamps*, which need not be punched a second time.

*Copy of a resolution of the Government of India in the Department of Finance and Commerce, No. 3047, dated Simla, the 5th September 1883.*

*Resolution.*—It was directed in Financial resolution No. 1763, dated 24th July 1873, that the record-keeper of every Court shall, when a case is decided and the record consigned to his custody, punch a second hole in each label distinct from the first which is prescribed by section 30 of the Court-Fees Act, and note the date of doing so at the same time.

These directions apply only to adhesive labels used under the Court-Fees Act. Impressed stamps used for denoting Court-fees need not be cancelled or punched otherwise than as required by section 30 of the Court-Fees Act.

V. Whenever the custody of a record containing Court-fee stamps is transferred from one official to another before final disposal, the receiving officer shall examine the Court-fee stamps in the file, and either certify on the index of papers that they are complete, or immediately bring to notice any deficiency, as the case may require.

Examination of file.  
Deficiencies to be reported.



VI. Record-keepers will be held personally responsible that the stamps appertaining to

Record-keeper responsible for all stamps on files.

the files under their charge are complete, and that they have been duly cancelled in accordance with the above instructions. Should a file be sent into the record room in which the stamps are incomplete, or not duly cancelled, the record-keeper shall report the circumstance at once to the head of the office and shall defer entering the case in its appropriate register until orders have been passed in the matter.

VII. When a record containing Court-fee stamps is

Examination of Court-fees by officials through whose hands files pass.

taken out of the record room for any purpose, each official through whose hands the file passes must note on the index of papers, or on the list of files, where such a list is with the file, that he has examined the Court-fee stamps in the file, and that they are complete, or, if they are not complete, at once report the fact for orders.

NOTE.—1. To facilitate the examinations required by the above rules, a column has been inserted in the index of papers attached to each record, which shows at a glance what papers in the file bear Court-fee stamps, and the number and value of the stamps attached to each of such papers.

2. These rules do not supersede in any way the instructions contained in paragraph 139 of the Punjab Stamp Manual, Edition of 1888.

3. Paragraph 140 of the Punjab Stamp Manual, Edition of 1888 contains further instructions with regard to fraudulent practices in respect of Court-fee labels, and is added here for information of the Courts :—



“ 140. Further precautions against the fraudulent use of Court-fee labels a second time were, under the orders of Government, prescribed by the Superintendent of Stamps in his Circular No. 1, dated 24th April 1877, of which the effective portions are extracted below. It is to be noted that at that time adhesive labels alone were used to denote fees of Court :—

“ ‘ The first and most important point to be guarded against is the re-use of stamps which have once been used: such stamps may have been punched, or they may have been left unpunched, and passed into the record office and there removed. In the case of a removed stamp that has been punched once, it is clear that its use a second time can only be effected by the dishonesty of the native subordinate who, in the first instance, receives the document presented by suitors. In the case of a removed stamp that has not been punched, it is possible that it may have been so little injured in the removal as to be used a second time without detection, unless the stamps be closely examined: and it may pass undetected either from dishonesty or from want of vigilance on the part of the native subordinate. In order effectually to prevent frauds of this nature, it is absolutely necessary that the native subordinate whose duty it is to see that the full fee has been affixed in each case and to punch the stamps and to record orders, stand or sit within full view of the officer, and in that position to perform his task, certifying on each petition that the full fee has been affixed, and all stamps have been punched. It is of the utmost importance that this subordinate, be his position ever so high on the establishment, should be allowed no time or opportunity for tampering with the stamps.

“ ‘ When files of decided cases sent to the record room, the record-keeper should be required, without any loss of



time, to examine the stamps and punch a second hole in each stamp, affixing the date on which he does so.

“The last precaution against the fraudulent re-use of Court-fee stamps lies in the periodical examination of files by the Superintendent of Stamps, whose inspection duties have been extended so as to comprise *all* Courts and Offices where stamps are filed or kept.”

*See Rules and Orders of the Chief Court of the Punjab, pp. 185 to 198.*

#### APPENDIX F.

The Rules framed under 234 (1) have been given under Appendix D.







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K. DIVISION

76355

16.3.70

Acc. No. \_\_\_\_\_

Date \_\_\_\_\_